
STATUTORY INSTRUMENTS

1997 No. 619

HOUSING, ENGLAND AND WALES

The Housing (Right to Acquire) Regulations 1997

<i>Made</i>	- - - -	<i>5th March 1997</i>
<i>Laid before Parliament</i>		<i>7th March 1997</i>
<i>Coming into force</i>	- -	<i>1st April 1997</i>

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in the exercise of the powers conferred upon them by section 17 of the Housing Act 1996⁽¹⁾ and all other powers enabling them in that behalf hereby make the following Regulations—

Citation and commencement

1. These Regulations may be cited as the Housing (Right to Acquire) Regulations 1997 and shall come into force on 1st April 1997.

Modification to the Right to Buy

2.—(1) Part V of the Housing Act 1985⁽²⁾ (the right to buy) as it applies in relation to the right under section 16 of the Housing Act 1996 (right of tenant to acquire dwelling) has effect subject to the exceptions, adaptations and other modifications specified in Schedule I to these Regulations.

(2) Part V of the Housing Act 1985 as it applies by virtue of paragraph (1) is set out in Schedule 2 to these Regulations.

(1) 1996 c. 52.
(2) 1985 c. 68.

Status: This is the original version (as it was originally made). UK
Statutory Instruments are not carried in their revised form on this site.

Signed by authority of the Secretary of State for the Environment

5th March 1997

David Curry
Minister of State,
Department of the Environment

Signed by authority of the Secretary of State for Wales

5th March 1997

Jonathan Evans
Parliamentary Under Secretary of State for
Wales

SCHEDULE 1

Regulation 2(1)

MODIFICATIONS TO PART V OF THE HOUSING ACT 1985

1. In the provisions of Part V, in the expressions—
 - (a) “secure tenant” omit “secure” save for the reference to secure tenant in sections 127(4), 127(4A), 136(1), 185, and 188; and
 - (b) “secure tenancy” omit “secure” save for the reference to secure tenant in sections 127(4), 136(1), 185 and 188.
2. In the provisions in Part V, for the expression “right to buy” substitute the expression “right to acquire” save for the references to the right to buy in section 122(4) and section 130(2)(aa)(3).
3. For section 118(1) (the right to buy) substitute—

“**118.**—(1) A tenant of a registered social landlord who satisfies the conditions in section 16(1)(a) and (b) of the Housing Act 1996(4) has the right to acquire, that is to say, the right, in the circumstances and subject to the conditions and exceptions stated in the following provisions of this Part—

 - (a) if the dwelling-house is a house and the landlord owns the freehold, to acquire the freehold of the dwelling-house,
 - (b) if the landlord does not own the freehold or if the dwelling-house is a flat (whether or not the landlord owns the freehold), to be granted a lease of the dwelling-house.”
4. At the end of section 122 (tenant’s notice claiming to exercise the right to acquire) add—

“(4) The tenant shall not make an application to acquire the dwelling-house under section 16 of the Housing Act 1996 (right of tenant to acquire dwelling) at any time when the tenant has made an application to buy under this Part, as it applies in relation to the right to buy and the preserved right to buy, which has not been withdrawn by the tenant or denied by the landlord, but nothing in this subsection shall prevent the tenant withdrawing such an application and submitting an application under section 16 of the Housing Act 1996 (right of tenant to acquire dwelling)”.
5. After section 124 (landlord’s notice admitting or denying the right to buy)(5) add—

“**Landlord’s offer of an alternative dwelling-house**

124A.—(1) Where the landlord, in his notice under section 124 (landlord’s notice admitting or denying the right to acquire), admits the tenant’s right to acquire, he may offer to make a disposal to that tenant of an alternative dwelling-house.

 - (2) The tenant may refuse the landlord’s offer of an alternative dwelling-house.
 - (3) If the tenant accepts the landlord’s offer of an alternative dwelling-house the provisions of this Part shall apply to the alternative dwelling-house.”
6. In section 125 (landlord’s notice of purchase price and other matters)—
 - (a) in subsection (2)(c) omit “stating the period to be taken into account under section 129 (discount)” and “or section 131(1) or (2) (limits on the amount of discount)”; and
 - (b) in subsection (5)(6) omit sub-paragraphs (e) and (f).

(3) Section 130(2)(aa) was added by paragraph 29 of Schedule 5 to the Housing and Planning Act 1986.

(4) 1996 c. 52.

(5) Section 124(3) was repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993.

(6) Section 125(5) was substituted by section 104 of the Leasehold Reform, Housing and Urban Development Act 1993.

7. In section 125A (2)(b)(7) (estimates and information about service charges) omit the words from “and section 450A” to the end of the subsection.

8. For section 125 D(1)(8) (tenant’s notice of intention) substitute—

“(1) Where a notice under section 125 has been served on a tenant, he shall within the period specified in subsection (2) serve a written notice on the landlord stating either that he intends to pursue his claim to exercise the right to acquire or that he withdraws that claim.”.

9. For section 126(1)(b) (purchase price) substitute—

“(b) the discount to which the purchaser is entitled under an order under section 17 of the Housing Act 1996 (the right to acquire: supplementary provisions).”.

10. In section 127 (value of the dwelling-house)—

- (a) in subsection (1)(b) for “subsection (4)” substitute “subsections (4) and (4A)”;
- (b) in subsection (3) omit “(but subject to sub-paragraph (3) of that paragraph)”; and
- (c) for subsection (4) substitute—

“(4) Where the tenant is a secure tenant the persons referred to in subsection (1) (b) are—

- (a) the secure tenant,
- (b) any person who under the same tenancy was a secure tenant before him,
- (c) any member of his family who, immediately before the secure tenancy was granted, was a secure tenant of the same dwelling-house under another tenancy,

but do not include, in a case where the secure tenancy has at any time been assigned by virtue of section 92 (assignments by way of exchange), a person who under that tenancy was a secure tenant before the assignment.

(4A) Where the tenant is an assured tenant the persons referred to in subsection (1) (b) are—

- (a) the assured tenant,
- (b) any member of his family—
 - (i) who was an assured or secure tenant before him under the same tenancy, or
 - (ii) who, immediately before the tenancy was granted, was an assured or secure tenant of the same dwelling-house under another tenancy.”.

11. In section 129(9) (discount)—

- (a) in subsection (1) for the words after “entitled to a discount of” substitute “such amount or at such rate as the Secretary of State may by order prescribe.”;
- (b) at the end of subsection (1) insert—

“(1A) Where, under section 124A(3) (landlord’s offer of an alternative dwelling-house), the tenant has accepted the landlord’s offer of an alternative dwelling-house, the discount to which the tenant is entitled shall be the discount prescribed under section 17 of the Housing Act 1996 in relation to that alternative dwelling-house.”; and

- (c) omit subsections (2), (2A), (2B) and (3).

(7) Section 125A was inserted by section 4(2) of the Housing and Planning Act 1986.

(8) Section 125D was inserted by section 105 of the Leasehold Reform, Housing and Urban Development Act 1993.

(9) Section 129 was amended by section 2 of the Housing and Planning Act 1986.

12. In section 130(2) (reduction of discount where previous discount given) after subparagraph (b) add—

“(c) in pursuance of any provision of, or required by, this Part as it has effect by virtue of section 17 of the Housing Act 1996 (the right to acquire: supplementary provisions).”.

13. Omit section 131 (limits on amount of discount)(**10**).

14. In section 136(**11**) (change of secure tenant after notice claiming right to buy) after subsection (1) insert—

“(1A) Where, after an assured tenant (“the former tenant”) has given a notice claiming the right to acquire, another person (“the new tenant”) becomes—

(a) the assured tenant by virtue of section 17 of the Housing Act 1988 (succession by spouse on tenant’s death), or

(b) the assured tenant under a statutory tenancy arising by virtue of section 5 of the Housing Act 1988 (statutory assured tenancy on the end of fixed term tenancy),

the new tenant shall be in the same position as if the notice had been given by him and he had been the tenant at the time it was given.”.

15. For section 140(3)(**12**) (landlord’s first notice to complete) substitute—

“(3) A notice under this section shall not be served earlier than twelve months after the service of the landlord’s notice under section 125 (notice of purchase price and other matters).”.

16. Omit sections 143 to 153(**13**) (right to acquire on rent to mortgage terms).

17. Omit sections 153A(**14**) (tenant’s notices of delay) and 153B(**15**) (payments of rent attributable to purchase price etc.).

18. For section 154(1) (registration of title)(**16**) substitute—

“(1) Where the landlord’s title to the dwelling-house is not registered, section 123 of the Land Registration Act 1925 (compulsory registration of title) applies in relation to the conveyance of the freehold or the grant of a lease in pursuance of this Part, whether or not the dwelling-house is in an area in which an Order in Council under section 120 of that Act is for the time being in force (areas of compulsory registration) and, in the case of a lease, whether or not the lease is granted for a term of more than 21 years.”.

19. In section 155 (repayment of discount on early disposal)—

(a) in subsection (2)(**17**) omit the words “In the case of a conveyance or grant in pursuance of the right to buy”; and

(b) omit subsections (3)(**18**) and (3A)(**19**).

(10) Section 131 was amended by section 122 of the Housing Act 1988.

(11) Section 136(2) was substituted and subsections (3), (4) and (5) repealed by section 105(2) of the Leasehold Reform, Housing and Urban Development Act 1993.

(12) Section 140(3) was substituted by paragraph 12 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993.

(13) Sections 143 to 151 were substituted by sections 108 to 116 of the Leasehold Reform, Housing and Urban Development Act 1993; sections 151A and 151B were inserted by sections 117 and 118 of the 1993 Act; sections 152 and 153 were amended by section 119 of the 1993 Act.

(14) Section 153A was inserted by section 124 of the Housing Act 1988 and amended and partly repealed by Schedules 21 and 22 to the Leasehold Reform, Housing and Urban Development Act 1993.

(15) Section 153B was inserted by section 124 of the Housing Act 1988 and amended and partly repealed by Schedules 21 and 22 to the Leasehold Reform, Housing and Urban Development Act 1993.

(16) Section 154(1) was amended by section 2(3) of the Land Registration Act 1986.

(17) Section 155(2) was amended by section 2(3) of the Housing and Planning Act 1986.

(18) Section 155(3) was substituted by section 120(1) of the Leasehold Reform, Housing and Urban Development Act 1993.

20. In section 156 (liability to repay is a charge on the premises)—
- (a) for subsection (2)(20) substitute—

“(2) Subject to subsections (2A) and (2B), the charge has priority immediately after any legal charge securing an amount advanced to the tenant by an approved lending institution for the purpose of enabling him to exercise the right to acquire.”,
 - (b) in subsection (2A)(21)(a) omit the words “paragraph (a) or (b) of”, and
 - (c) in subsection (4A)(22) omit paragraph (a).
21. Omit section 157 (restriction on disposal of dwelling-houses in National Parks etc.)(23).
22. Omit section 158 (consideration for reconveyance or surrender under s. 157)(24).
23. In section 162 (exempted disposals which end liability under covenants) for the words after “used for the purpose of dwelling-house” substitute—
- “the covenant required by section 155 (repayment of discount on early disposal) is not binding on the person to whom the disposal is made or any successor in title of his, and that covenant and the charge taking effect by virtue of section 156 cease to apply in relation to the property disposed of.”
24. In section 163 (treatment of options) omit subsection (2).
25. Omit sections 164 to 170 (various powers of the Secretary of State).
26. Omit section 171 (power to extend the right to buy, etc.).
27. Omit sections 171A to 171H (preservation of the right to buy on disposal to private sector landlord)(25).
28. Omit section 173 (exclusion of shared ownership leases granted under this Part).
29. For section 174 (leases granted under this Part to be treated as long leases at a low rent) substitute—

“Leases granted under this Part to be treated as long leases at a low rent

174. For the purposes of Part I of the Leasehold Reform Act 1967 (enfranchisement and extension of long leaseholds) a tenancy created by the grant of a lease in pursuance of this Part of a dwelling-house which is a house shall be treated as being a long tenancy notwithstanding that it is granted for a term of 21 years or less.”

30. In section 176 (notices)—
- (a) omit subsections (1) and (2);
 - (b) for subsection (4) substitute—

“(4) A notice to be served by the tenant on the landlord under this Part may be served by leaving it at, or sending it to, the principal office of the landlord or the office of the landlord with which the tenant usually deals.”; and

(19) Section 155(3A) was inserted by paragraph 41 of Schedule 17 to the Housing Act 1988 and amended by section 120(2) of the Leasehold Reform, Housing and Urban Development Act 1993.

(20) Section 156(2) was substituted by section 120(3) of the Leasehold Reform, Housing and Urban Development Act 1993.

(21) Section 156(2A) was inserted by section 120(3) of the Leasehold Reform, Housing and Urban Development Act 1993.

(22) Section 156(4A) was inserted by section 120(4) of the Leasehold Reform, Housing and Urban Development Act 1993.

(23) Section 157 was amended by section 126 and paragraph 106 of Schedule 17 to the Housing Act 1988.

(24) Section 158 was amended by the Housing and Planning Act 1986 Schedule 5 paragraph 1 and by the Leasehold Reform, Housing and Urban Development Act 1993 Schedule 21 paragraph 15.

(25) Sections 171 A-H were added by section 8 of the Housing and Planning Act 1986; section 171B was amended by section 127(1) of the Housing Act 1988; section 171C was amended by Schedule 21 paragraph 19 and partly repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993.

(c) omit subsection (5).

31. Omit section 177(26) (errors and omissions in notices).

32. For section 178 (costs)(27) substitute—

“Costs

178. An agreement between the landlord and a tenant claiming to exercise the right to acquire is void in so far as it purports to oblige the tenant to bear any part of the costs incurred by the landlord in connection with the tenant’s exercise of that right.”.

33. In section 179(28) (provisions restricting right to buy etc. of no effect)—

(a) in subsection (1)(a) omit “or the right to acquire on rent to mortgage terms.”; and

(b) omit subsection (2).

34. In section 180(29) (statutory declarations) omit “or the Secretary of State” in each place it occurs.

35. In section 181(1)(30) (jurisdiction of county court)—

(a) in paragraph (b) omit “or under a conveyance or grant executed in pursuance of the right to acquire on rent to mortgage terms.”; and

(b) for “sections 128 and 158” substitute “section 128”.

36. Omit section 182(31) (power to repeal or amend local Acts).

37. In section 184(32) (land let with or used for the purposes of dwelling-house) subsections (2) (a) and (3) omit “or the right to acquire on rent to mortgage terms”.

38. In section 188(33) (index of defined expressions: Part V) omit from the first column of the Table the following expressions together with the corresponding entries in the second column—

“disposal and instrument effecting disposal in Schedule 9A”

“final payment”

“former landlord and former secure tenant (in relation to qualifying disposal)”

“former landlord and former secure tenant (in relation to qualifying disposal)”

“initial payment and interim payment”

“landlord’s share”

“minimum initial payment and maximum initial payment”

“preserved right to buy”

(26) Section 177 was amended by paragraph 106 of Schedule 17 to the Housing Act 1988; amended by paragraph 20 of Schedule 21 and partly repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993.

(27) Section 178 was substituted by paragraph 21 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993.

(28) Section 179(1)(a) was amended by paragraph 22 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993.

(29) Section 180 was amended by paragraph 106 of Schedule 17 to the Housing Act 1988 and partly repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993.

(30) Section 181(1) was amended by paragraph 23 of Schedule 21 and partly repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993.

(31) Section 182 was partly repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993.

(32) Section 184(2)(a) and (3) were amended by paragraph 24 of Schedule 21 to the Leasehold Reform, Housing and Urban Development Act 1993.

(33) Section 188 was amended by paragraph 31 of Schedule 5 to the Housing and Planning Act 1986; paragraph 106 of Schedule 17 to the Housing Act 1988; paragraph 25 of Schedule 21 and partly repealed by Schedule 22 to the Leasehold Reform, Housing and Urban Development Act 1993.

“qualifying disposal (in relation to the preserved right to buy)”
“qualifying dwelling-house and qualifying person (in relation to the preserved right to buy)”
“right to acquire on rent to mortgage terms”

39. In Schedule 4 (qualifying period for the right to buy and discount)

(a) for paragraph 1 substitute—

“**1.** The period to be taken into account for the purposes of section 119 (qualification for the right to acquire) is the period qualifying, or the aggregate of the periods qualifying, under the following provisions of this Schedule”; and

(b) omit paragraph 5A(**34**) (periods during which the right to buy is preserved).

40. In Schedule 5(**35**) (exceptions to the right to buy)—

(a) omit paragraph 1 (charities) and insert the following paragraph—

“Rural areas

1A. The right to acquire does not arise if the dwelling house is situated in a rural area designated by order of the Secretary of State under section 17(1)(b) (right to acquire: supplementary provisions) of the Housing Act 1996.”;

(b) omit paragraph 3 (certain housing associations);

(c) after paragraph 9 insert the following paragraph—

“Certain dwelling-houses for persons with special needs

9A.—(1) The right to acquire does not arise if the dwelling-house is one of a group of dwelling-houses which it is the practice of the landlord to let for occupation by persons who have special needs and require intensive housing assistance and such intensive housing assistance is provided, either directly or indirectly, by the landlord.

(2) In this paragraph “intensive housing assistance” means the provision by the landlord to persons with special needs of assistance on housing issues which is significantly greater than the assistance which is generally provided by registered social landlords to tenants who do not have special needs.

(3) In this paragraph “persons who have special needs” means persons who are vulnerable as a result of age, physical disability or illness, a mental disorder or impairment of any kind, drug or alcohol addiction, violence or the threat of violence by a member of a person’s family, or other special reason.”;

(d) omit paragraph 11 (certain dwelling-houses for persons of pensionable age);

(e) after paragraph 12 add the following paragraph—

“Dwelling-houses where the debt is equal to or greater than the purchase price plus the discount

13.—(1) The right to acquire does not arise if the net debt or the peak debt attributable to the dwelling-house on the date of service of the tenant’s notice

(34) Paragraph 5A was inserted by paragraph 40 of Schedule 5 to the Housing and Planning Act 1986.

(35) Paragraph 5 of Schedule 5 was amended by section 83(1), (6)(d) of the Housing Act 1988; paragraphs 6 and 8 were repealed by section 123, 140(2), Schedule 18 of the Housing Act 1988; paragraph 10 was amended and paragraph 11 substituted by section 106 of the Leasehold Reform, Housing and Urban Development Act 1993.

under section 122 (tenant's notice claiming to exercise the right to acquire) is equal to or greater than the purchase price plus the discount.

(2) In sub-paragraph (1) the net debt is the amount of the relevant costs, as defined in sub-paragraph (4), less the amount of public subsidy as defined in sub-paragraph (5).

(3) In sub-paragraph (1) the peak debt is the amount under a loan agreement, as defined in sub-paragraph (6), that is the portion of the maximum amount which the landlord may borrow under a loan agreement which is attributable to the dwelling-house.

(4) In sub-paragraph (2) "the relevant costs" means the costs incurred by the landlord in respect of the acquisition of the dwelling-house, the construction of the dwelling-house (including the costs of development works and the acquisition of land) but does not include the costs of—

- (a) works of repair or maintenance;
- (b) works to deal with any defect affecting the dwelling-house;
- (c) works of improvement where they are paid for on or after the date of service of the tenant's notice under section 122 unless—
 - (i) the landlord has before that date entered into a written contract for the carrying out of the works; or
 - (ii) the tenant has agreed in writing to the carrying out of the works and either the works have been carried out no later than the date of service of the landlord's notice under section 125 (landlord's notice of purchase price and other matters) or the works will be carried out under the proposed terms of the conveyance.

(5) In sub-paragraph (2) "public subsidy" means grant or other financial assistance of any kind used by the landlord in whole or in part in connection with the acquisition, construction (including the costs of development and the acquisition of land), repair, maintenance or improvement of the dwelling-house where such grant or assistance is received from—

the Housing Corporation in England and Housing for Wales in Wales under section 18 of the Housing Act 1996 (social housing grants),

the Secretary of State under section 126 of the Housing Grants, Construction and Regeneration Act 1996⁽³⁶⁾ under the programme designated "City Challenge" in England and the programmes designated the "Strategic Development Scheme" and "Welsh Capital Challenge" in Wales,

a local housing authority where grant is paid pursuant to an application by the landlord under Part VIII (grants towards the costs of improvements and repairs) of the Local Government and Housing Act 1989⁽³⁷⁾ or Chapter I of Part I (grants &c. for renewal of private sector housing) of the Housing Grants, Construction and Regeneration Act 1996,

National Lottery, and

a local authority in a case where the local authority has conveyed the freehold or leasehold of land to the landlord at a price which is below the market value of the land at the time of the conveyance.

(6) In sub-paragraph (3) "a loan agreement" means an agreement—

⁽³⁶⁾ 1996 c. 53.

⁽³⁷⁾ 1989 c. 42.

- (a) for a loan between a lender and the landlord which is wholly or partly secured by a charge (however created or arising) on the landlord's interest in the dwelling-house,
- (b) which specifies the portion of the maximum amount which the landlord may borrow in any period which is attributable to the dwelling-house, and
- (c) which is for the purpose of the provision of monies for use in connection with the acquisition of land held for housing purposes and housing stock pursuant to a disposal under section 32 (power to dispose of land held for the purposes of this Part) of the Housing Act 1985; and where a loan is for such a purpose it may include the construction of dwelling-houses (including the costs of development works and the acquisition of land) and works of repair, maintenance or improvement to dwelling-houses pursuant to such acquisition.”.

41. In Schedule 6 (conveyance of freehold and grant of lease in pursuance of right to buy)—

- (a) in paragraph 11 (general), omit “(but subject to sub-paragraph (3))”;
- (b) in paragraph 12 (the appropriate term), omit sub-paragraph (3);
- (c) omit paragraph 16E (service charges in rent to mortgage cases);
- (d) in paragraph 17 (avoidance of certain provisions), omit sub-paragraph (2).
- (e) in paragraph 20 (grant of a lease), at the end add—
 - “provided that—
 - (a) the landlord has complied with the requirements imposed on the landlord by paragraph 22, or
 - (b) the holder of the charge has agreed in writing with the landlord that paragraph 22 shall not apply,
 but the release does not affect the personal liability of the landlord or any other person in respect of any obligation the charge was created to secure.”.
- (f) in paragraph 21(2) (conveyance of freehold), after “from the charge” insert—
 - “Provided that—
 - (a) the landlord has complied with the requirements imposed on the landlord by paragraph 22, or
 - (b) the holder of the charge has agreed in writing with the landlord that paragraph 22 shall not apply;”.
- (g) after paragraph 21 add the following—

“Notice to lenders

22.—(1) This paragraph and paragraph 23 shall apply to a charge (however created or arising) on the interest of the landlord in the dwelling-house, unless and until the landlord and the holder of the charge at any time agree otherwise in writing.

(2) Within 7 days of the landlord receiving the tenant's written notice of intention to pursue his claim to the right to acquire under section 125D the landlord shall serve on the holder of any charge secured against the dwelling-house a written notice stating the purchase price of the dwelling-house and the amount of discount and whether the landlord intends to redeem the charge in

respect of the dwelling-house on the grant of the lease or the conveyance of the freehold to the tenant pursuant to the right to acquire.

(3) If the landlord's notice states that he intends to redeem the charge then, on the grant of the lease or the conveyance of the freehold, the sum required to redeem the charge shall be paid by the landlord to the charge holder and the charge holder shall supply to the landlord the necessary documentation to release the charge in respect of the dwelling-house.

(4) If the landlord does not intend to redeem the charge on the grant of a lease or the conveyance of the freehold the landlord's notice shall, in addition, offer to the holder of the sole charge or the charge having priority the option of either—

- (a) subject to sub-paragraph (5), taking as alternative security a charge on the interest in a property of the landlord which has a value (excluding any amount secured by a charge with priority on the landlord's interest in the property) equal to or greater than the purchase price of the dwelling-house plus the discount, or
- (b) an amount equal to the purchase price of the dwelling-house plus the discount.

(5) The landlord shall not be required to offer a property as alternative security unless the landlord owns a freehold or leasehold interest in a property with a value (excluding any amount secured by a charge on the interest which is being offered in the property) equal to or greater than the purchase price plus discount.

(6) Where sub-paragraph (4) applies within 14 days of receipt of the landlord's notice the charge holder shall serve on the landlord a written notice stating the option exercised by the charge holder.

(7) Where the charge holder exercises the option specified in sub-paragraph (4) (a) the landlord shall within 14 days of receipt of the charge holder's notice offer the charge holder a specified property in accordance with that sub-paragraph.

(8) Where the charge holder accepts the property offered as alternative security the landlord shall take all reasonable steps to enable the charge holder to secure a charge against the landlord's interest in the property within whichever is the later of—

- (a) 21 days of the date on which the landlord receives notification of the charge holder's acceptance of the property as alternative security, or
- (b) the grant of the lease or the conveyance of the freehold of the dwelling-house pursuant to the right to acquire;

(9) If the landlord fails to take all reasonable steps to enable the charge holder to secure a charge against the landlord's interest in accordance with sub-paragraph (8) the charge holder may require the landlord to pay within 7 days an amount equal to the purchase price of the dwelling house plus the discount.

(10) Where the charge holder rejects the property offered as alternative security the charge holder may require the landlord to pay an amount equal to the purchase price of the dwelling-house plus the discount within whichever is the later of—

- (a) 21 days of the date on which the landlord receives notification of the charge holder's rejection of the property, or
- (b) the grant of the lease or the conveyance of the freehold of the dwelling-house pursuant to the right to acquire.

(11) Where the charge holder exercises the option in sub-paragraph (4)(b) the landlord shall pay the sum specified in that sub-paragraph on the grant of the lease or the conveyance of the freehold of the dwelling-house pursuant to the right to acquire.

Discharge of the charge on the landlord's interest in the dwelling-house

23.—(1) Where the landlord and the charge holder have agreed in writing that the provisions of paragraph 22 shall not apply on the grant of the lease or the conveyance of the freehold pursuant to the right to acquire the landlord shall supply to the tenant a certificate confirming the agreement together with a copy of the agreement which is certified as a true copy.

(2) Where the provisions of paragraph 22 apply, provided that the landlord has complied with the requirements imposed on the landlord by that paragraph any holder of a charge on the landlord's interest in the dwelling-house shall, on the grant of the lease or the conveyance of the freehold of the dwelling-house pursuant to the right to acquire, provide to the landlord such documentation as is necessary to discharge their charge in respect of the dwelling-house.

(3) Where a charge holder does not provide the documentation in accordance with sub-paragraph (2), or where the charge holder has failed to serve a notice in accordance with paragraph 22(6), the landlord shall, on the grant of the lease or the conveyance of the freehold pursuant to the right to acquire, supply to the tenant a certificate stating that the landlord has complied with the requirements imposed on the landlord by paragraph 22.

(4) A certificate under sub-paragraphs (1) or (3) shall be effective to release the dwelling-house from the charge on the interest of the landlord to which the certificate applies but shall not affect the personal liability of the landlord or any other person in respect of any obligation which such a charge was created to secure.

(5) A certificate under sub-paragraphs (1) or (3) shall—

(a) be in a form approved by the Chief Land Registrar, and

(b) signed by such officer of the landlord or such other person as may be approved by the Chief Land Registrar.

(6) The Chief Land Registrar shall, for the purpose of registration of title, accept such certificate as sufficient evidence of the facts stated in it, but if as a result he has to meet a claim against him under the Land Registration Acts 1925 to 1971 the landlord is liable to indemnify him.”.

42. Omit Schedule 6A**(38)** (redemption of landlord's share) and Schedule 9A**(39)** (land registration and related matters where right to buy is preserved).

(38) Schedule 6A was inserted by section 117(2) of and Schedule 16 to the Leasehold Reform, Housing and Urban Development Act 1993.

(39) Schedule 9A was inserted by section 8(2) and Schedule 2 to the Housing and Planning Act 1986.

SCHEDULE 2

Regulation 2(2)

PART V AS IT APPLIES IN CASES WHERE THE RIGHT TO ACQUIRE APPLIES THE RIGHT TO ACQUIRE

The right to acquire

The right to acquire

118.—(1) A tenant of a registered social landlord who satisfies the conditions in section 16(1)(a) and (b) of the Housing Act 1996 has the right to acquire, that is to say, the right, in the circumstances and subject to the conditions and exceptions stated in the following provisions of this Part—

- (a) if the dwelling-house is a house and the landlord owns the freehold, to acquire the freehold of the dwelling-house,
- (b) if the landlord does not own the freehold or if the dwelling-house is a flat (whether or not the landlord owns the freehold), to be granted a lease of the dwelling-house.

(2) Where a tenancy is a joint tenancy then, whether or not each of the joint tenants occupies the dwelling-house as his only or principal home, the right to acquire belongs jointly to all of them or to such one or more of them as may be agreed between them; but such an agreement is not valid unless the person or at least one of the persons to whom the right to acquire is to belong occupies the dwelling-house as his only or principal home.

Qualifying period for right to acquire

119.—(1) The right to acquire does not arise unless the period which, in accordance with Schedule 4, is to be taken into account for the purposes of this section is at least two years.

(2) Where the tenancy is a joint tenancy the condition in subsection (1) need be satisfied with respect to one only of the joint tenants.

Exceptions to the right to acquire

120. The right to acquire does not arise in the cases specified in Schedule 5 (exceptions to the right to acquire).

Circumstances in which the right to acquire cannot be exercised

121.—(1) The right to acquire cannot be exercised if the tenant is obliged to give up possession of the dwelling-house in pursuance of an order of the court or will be so obliged at a date specified in the order.

(2) The right to acquire cannot be exercised if the person, or one of the persons, to whom the right to acquire belongs—

- (a) has a bankruptcy petition pending against him,
- (c) is an undischarged bankrupt, or
- (d) has made a composition or arrangement with his creditors the terms of which remain to be fulfilled.

Claim to exercise right to acquire

Tenant's notice claiming to exercise right to acquire

122.—(1) A tenant claims to exercise the right to acquire by written notice to that effect served on the landlord.

(2) In this Part “the relevant time”, in relation to an exercise of the right to acquire, means the date on which that notice is served.

(3) The notice may be withdrawn at any time by notice in writing served on the landlord.

(4) The tenant shall not make an application to acquire the dwelling-house under section 16 of the Housing Act 1996 (right of tenant to acquire dwelling) at any time when the tenant has made an application to buy under this Part, as it applies in relation to the right to buy and the preserved right to buy, which has not been withdrawn by the tenant or denied by the landlord, but nothing in this subsection shall prevent the tenant withdrawing such an application and submitting an application under section 16 of the Housing Act 1996 (right of tenant to acquire dwelling).

Claim to share right to acquire with members of family

123.—(1) A tenant may in his notice under section 122 require that not more than three members of his family who are not joint tenants but occupy the dwelling-house as their only or principal home should share the right to acquire with him.

(2) He may validly do so in the case of any such member only if—

- (a) that member is his spouse or has been residing with him throughout the period of twelve months ending with the giving of the notice, or
- (b) the landlord consents.

(3) Where by such a notice any members of the tenant's family are validly required to share the right to acquire with the tenant, the right to acquire belongs to the tenant and those members jointly and he and they shall be treated for the purposes of this Part as joint tenants.

Landlord's notice admitting or denying right to acquire

124.—(1) Where a notice under section 122 (notice claiming to exercise right to acquire) has been served by the tenant, the landlord shall, unless the notice is withdrawn, serve on the tenant within the period specified in subsection (2) a written notice either—

- (a) admitting his right, or
- (b) denying it and stating the reasons why, in the opinion of the landlord, the tenant does not have the right to acquire.

(2) The period for serving a notice under this section is four weeks where the requirement of section 119 (qualifying period for the right to acquire) is satisfied by a period or periods during which the landlord was the landlord on which the tenant's notice under section 122 was served, and eight weeks in any other case.

Landlord's offer of an alternative dwelling-house

124A.—(1) Where the landlord, in his notice under section 124 (landlord's notice admitting or denying the right to acquire), admits the tenant's right to acquire, he may offer to make a disposal to that tenant of an alternative dwelling-house.

(2) The tenant may refuse the landlord's offer of an alternative dwelling-house.

(3) If the tenant accepts the landlord's offer of an alternative dwelling-house the provisions of this Part shall apply to the alternative dwelling-house.

Landlord's notice of purchase price and other matters

125.—(1) Where a tenant has claimed to exercise the right to acquire and that right has been established (whether by the landlord's admission or otherwise), the landlord shall—

- (a) within eight weeks where the right is that mentioned in section 118(1)(a) (right to acquire freehold), and
- (b) within twelve weeks where the right is that mentioned in section 118(1)(b) (right to acquire leasehold interest),

serve on the tenant a notice complying with this section.

(2) The notice shall describe the dwelling-house, shall state the price at which, in the opinion of the landlord, the tenant is entitled to have the freehold conveyed or, as the case may be, the lease granted to him and shall, for the purpose of showing how the price has been arrived at, state—

- (a) the value at the relevant time,
- (b) the improvements disregarded in pursuance of section 127 (improvements to be disregarded in determining value), and
- (c) the discount to which the tenant is entitled and, where applicable, the amount mentioned in section 130(1) (reduction for previous discount).

(3) The notice shall state the provisions which, in the opinion of the landlord, should be contained in the conveyance or grant.

(4) Where the notice states provisions which would enable the landlord to recover from the tenant

- (a) service charges, or
- (b) improvement contributions,

the notice shall also contain the estimates and other information required by section 125A (service charges) or 125B (improvement contributions).

(4A) The notice shall contain a description of any structural defect known to the landlord affecting the dwelling-house or the building in which it is situated or any other building over which the tenant will have rights under the conveyance or lease.

(5) The notice shall also inform the tenant of—

- (a) the effect of sections 125D and 125E(1) and (4) (tenant's notice of intention, landlord's notice in default and effect of failure to comply),
- (b) his right under section 128 to have the value of the dwelling-house at the relevant time determined or re-determined by the district valuer,
- (c) the effect of section 136(2) (change of tenant after service of notice under section 125),
- (d) the effect of sections 140 and 141(1), (2) and (4) (landlord's notices to complete and effect of failure to comply).

Estimates and information about service charges

125A.—(1) A landlord's notice under section 125 shall state as regards service charges (excluding, in the case of a flat, charges to which subsection (2) applies)—

- (a) the landlord's estimate of the average annual amount (at current prices) which would be payable in respect of each head of charge in the reference period, and

- (b) the aggregate of those estimated amounts,
and shall contain a statement of the reference period adopted for the purpose of the estimates.
- (2) A landlord's notice under section 125 given in respect of a flat shall, as regards service charges in respect of repairs (including works for the making good of structural defects), contain
- (a) the estimates required by subsection (3), together with a statement of the reference period adopted for the purpose of the estimates, and
 - (b) a statement of the effect of paragraph 16B of Schedule 6 (which restricts by reference to the estimates the amounts payable by the tenant).
- (3) The following estimates are required for works in respect of which the landlord considers that costs may be incurred in the reference period—
- (a) for works itemised in the notice, estimates of the amount (at current prices) of the likely cost of, and of the tenant's likely contribution in respect of, each item, and the aggregate amounts of those estimated costs and contributions, and
 - (b) for works not so itemised, an estimate of the average annual amount (at current prices) which the landlord considers is likely to be payable by the tenant.

Estimates and information about improvement contributions

- 125B.**—(1) A landlord's notice under section 125 given in respect of a flat shall, as regards improvement contributions, contain—
- (a) the estimates required by this section, together with a statement of the reference period adopted for the purpose of the estimates, and
 - (b) a statement of the effect of paragraph 16C of Schedule 6 (which restricts by reference to the estimates the amounts payable by the tenant).
- (2) Estimates are required for works in respect of which the landlord considers that costs may be incurred in the reference period.
- (3) The works to which the estimates relate shall be itemised and the estimates shall show—
- (a) the amount (at current prices) of the likely cost of, and of the tenant's likely contribution in respect of, each item and
 - (b) the aggregate amounts of those estimated costs and contributions.

Reference period for purposes of ss. 125A and 125B

- 125C.**—(1) The reference period for the purposes of the estimates required by section 125A or 125B is the period—
- (a) beginning on such date not more than six months after the notice is given as the landlord may reasonably specify as being a date by which the conveyance will have been made or the lease granted, and
 - (b) ending five years after that date or, where the notice states that the conveyance or lease will provide for a service charge or improvement contribution to be calculated by reference to a specified annual period, with the end of the fifth such period beginning after that date.
- (2) For the purpose of the estimates it shall be assumed that the conveyance will be made or the lease granted at the beginning of the reference period on the terms stated in the notice.

Tenant's notice of intention

125D.—(1) Where a notice under section 125 has been served on a tenant, he shall within the period specified in subsection (2) serve a written notice on the landlord stating either that he intends to pursue his claim to exercise the right to acquire or that he withdraws that claim.

(2) The period for serving a notice under subsection (1) is the period of twelve weeks beginning with whichever of the following is the later—

- (a) the service of the notice under section 125, and
- (b) where the tenant exercises his right to have the value of the dwelling-house determined or re-determined by the district valuer, the service of the notice under section 128(5) stating the effect of the determination or re-determination.

Landlord's notice in default

125E.—(1) The landlord may, at any time after the end of the period specified in section 125D(2) or, as the case may require, section 136(2), serve on the tenant a written notice—

- (a) requiring him, if he has failed to serve the notice required by section 125D(1), to serve that notice within 28 days, and
- (b) informing him of the effect of this subsection and subsection (4).

(2) At any time before the end of the period mentioned in subsection (1)(a) (or that period as previously extended) the landlord may by written notice served on the tenant extend it (or further extend it).

(3) If at any time before the end of that period (or that period as extended under subsection (2)) the circumstances are such that it would not be reasonable to expect the tenant to comply with a notice under this section, that period (or that period as so extended) shall by virtue of this subsection be extended (or further extended) until 28 days after the time when those circumstances no longer obtain.

(4) If the tenant does not comply with a notice under this section, the notice claiming to exercise the right to acquire shall be deemed to be withdrawn at the end of that period (or, as the case may require, that period as extended under subsection (2) or (3)).

Purchase price

Purchase price

126.—(1) The price payable for a dwelling-house on a conveyance or grant in pursuance of this Part is—

- (a) the amount which under section 127 is to be taken as its value at the relevant time, less
- (b) the discount to which the purchaser is entitled under an order under section 17 of the Housing Act 1996 (right to acquire: supplementary provisions).

(2) References in this Part to the purchase price include references to the consideration for the grant of a lease.

Value of dwelling-house

127.—(1) The value of a dwelling-house at the relevant time shall be taken to be the price which at that time it would realise if sold on the open market by a willing vendor—

- (a) on the assumptions stated for a conveyance in subsection (2) and for a grant in subsection (3),

- (b) disregarding any improvements made by any of the persons specified in subsection (4) to (4A) and any failure by any of those persons to keep the dwelling-house in good internal repair, and
 - (c) on the assumption that any service charges or improvement contributions payable will not be less than the amounts to be expected in accordance with the estimates contained in the landlord's notice under section 125.
- (2) For a conveyance the assumptions are—
- (a) that the vendor was selling for an estate in fee simple with vacant possession,
 - (b) that neither the tenant nor a member of his family residing with him wanted to buy, and
 - (c) that the dwelling-house was to be conveyed with the same rights and subject to the same burdens as it would be in pursuance of this Part.
- (3) For the grant of a lease the assumptions are—
- (a) that the vendor was granting a lease with vacant possession for the appropriate term defined in paragraph 12 of Schedule 6,
 - (b) that neither the tenant nor a member of his family residing with him wanted to take the lease,
 - (c) that the ground rent would not exceed £10 per annum, and
 - (d) that the grant was to be made with the same rights and subject to the same burdens as it would be in pursuance of this Part.
- (4) Where the tenant is a secure tenant the persons referred to in subsection (1)(b) are—
- (a) the secure tenant,
 - (b) any person who under the same tenancy was a secure tenant before him,
 - (c) any member of his family who, immediately before the secure tenancy was granted, was a secure tenant of the same dwelling-house under another tenancy,

but do not include, in a case where the secure tenancy has at any time been assigned by virtue of section 92 (assignments by way of exchange), a person who under that tenancy was a secure tenant before the assignment.

- (4A) Where the tenant is an assured tenant the persons referred to in subsection (1)(b) are—
- (a) the assured tenant,
 - (b) any member of his family—
 - (i) who was an assured or secure tenant before him under the same tenancy, or
 - (ii) who, immediately before the tenancy was granted, was an assured or secure tenant of the same dwelling-house under another tenancy.

Determination of value by district valuer

128.—(1) Any question arising under this Part as to the value of a dwelling-house at the relevant time shall be determined by the district valuer in accordance with this section.

(2) A tenant may require that value to be determined, or as the case may be re-determined, by a notice in writing served on the landlord not later than three months after the service on him of the notice under section 125 (landlord's notice of purchase price and other matters) or, if proceedings are then pending between the landlord and the tenant for the determination of any other question arising under this Part, within three months of the final determination of the proceedings.

(3) If such proceedings are begun after a previous determination under this section—

- (a) the tenant may, by notice in writing served on the landlord within four weeks of the final determination of the proceedings, require the value of the dwelling-house at the relevant time to be re-determined, and
- (b) the landlord may at any time within those four weeks, whether or not a notice under paragraph (a) is served, require the district valuer to re-determine that value;

and where the landlord requires a re-determination to be made in pursuance of this subsection, it shall serve on the tenant a notice stating that the requirement is being or has been made.

(4) Before making a determination or re-determination in pursuance of this section, the district valuer shall consider any representation made to him by the landlord or the tenant within four weeks from the service of the tenant's notice under this section or, as the case may be, from the service of the landlord's notice under subsection (3).

(5) As soon as practicable after a determination or re-determination has been made in pursuance of this section, the landlord shall serve on the tenant a notice stating the effect of the determination or re-determination and the matters mentioned in section 125(2) and (3) (terms for exercise of right to acquire).

Discount

129.—(1) Subject to the following provisions of this Part, a person exercising the right to acquire is entitled to a discount of such amount or at such rate as the Secretary of State may by order prescribe.

(1A) Where, under section 124A(3) (landlord's offer of an alternative dwelling-house), the tenant has accepted the landlord's offer of an alternative dwelling-house, the discount to which the tenant is entitled shall be the discount prescribed under section 17 of the Housing Act 1996 in relation to that alternative dwelling-house.

Reduction of discount where previous discount given

130.—(1) There shall be deducted from the discount an amount equal to any previous discount qualifying, or the aggregate of previous discounts qualifying, under the provisions of this section.

(2) A "previous discount" means a discount given before the relevant time—

- (a) on conveyance of the freehold, or a grant or assignment of a long lease, of a dwelling-house by a person within paragraph 7 or 7A of Schedule 4 (public sector landlords) or, in such circumstances as may be prescribed by order of the Secretary of State, by a person so prescribed, or
- (aa) on conveyance of the freehold, or a grant or assignment of a long lease of a dwelling-house by a person against whom the right to buy was exercisable by virtue of section 171A (preservation of right to buy on disposal to private sector landlord) to a person who was a qualifying person for the purposes of the preserved right to buy and in relation to whom that dwelling-house was the qualifying dwelling-house, or
- (ab) in pursuance of the provision required by paragraphs 3 to 5 or paragraph 7 of Schedule 6A (redemption of landlord's share), or
- (b) in pursuance of the provision required by paragraph 1 of Schedule 8 (terms of shared ownership lease: right to acquire additional shares), or any other provision to the like effect, or
- (c) in pursuance of any provision of, or required by, this Part as it has effect by virtue of section 17 of the Housing Act 1996 (the right to acquire: supplementary provisions).

(3) A previous discount qualifies for the purposes of this section if it was given—

- (a) to the person or one of the persons exercising the right to acquire, or

- (b) to the spouse of that person or one of those persons (if they are living together at the relevant time), or
- (c) to a deceased spouse of that person or one of those persons (if they were living together at the time of the death);

and where a previous discount was given to two or more persons jointly, this section has effect as if each of them had been given an equal proportion of the discount.

(4) Where the whole or part of a previous discount has been recovered by the person by whom it was given (or a successor in title of his)—

- (a) by the receipt of a payment determined by reference to the discount, or
- (b) by a reduction so determined of any consideration given by that person (or a successor in title of his), or
- (c) in any other way,

then, so much of the discount as has been so recovered shall be disregarded for the purposes of this section.

(5) An order under this section—

- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
- (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) In this section “dwelling-house” includes any yard, garden, outhouses and appurtenances belonging to the dwelling-house or usually enjoyed with it.

Change of tenant or landlord after service of notice claiming right to acquire

Change of tenant after notice claiming right to acquire

136.—(1) Where, after a secure tenant (“the former tenant”) has given a notice claiming the right to acquire, another person (“the new tenant”)—

- (a) becomes the secure tenant under the same secure tenancy, otherwise than on an assignment made by virtue of section 92 (assignments by way of exchange), or
- (b) becomes the secure tenant under a periodic tenancy arising by virtue of section 86 (periodic tenancy arising on termination of fixed term) on the coming to an end of the secure tenancy,

the new tenant shall be in the same position as if the notice had been given by him and he had been the secure tenant at the time it was given.

(1A) Where, after an assured tenant (“the former tenant”) has given a notice claiming the right to acquire, another person (“the new tenant”) becomes—

- (a) the assured tenant by virtue of section 17 of the Housing Act 1988 (succession by spouse on tenant’s death), or
- (b) the assured tenant under a statutory tenancy arising by virtue of section 5 of the Housing Act 1988 (statutory assured tenancy on the end of a fixed term tenancy),

the new tenant shall be in the same position as if the notice had been given by him and he had been the tenant at the time it was given.

(2) If a notice under section 125 (landlord’s notice of purchase price and other matters) has been served on the former tenant, then, whether or not the former tenant has served a notice under subsection (1) of section 125D (tenant’s notice of intention), the new tenant shall serve a notice

under that subsection within the period of twelve weeks beginning with whichever of the following is the later—

- (a) his becoming the tenant, and
- (b) where the right to have the value of the dwelling-house determined or re-determined by the district valuer is or has been exercised by him or the former tenant, the service of the notice under section 128(5) stating the effect of the determination or re-determination.

(6) The preceding provisions of this section do not confer any right on a person required in pursuance of section 123 (claim to share right to acquire with members of family) to share the right to acquire, unless he could have been validly so required had the notice claiming to exercise the right to acquire been given by the new tenant.

(7) The preceding provisions of this section apply with the necessary modifications if there is a further change in the person who is the tenant.

Change of landlord after notice claiming right to acquire

137.—(1) Where the interest of the landlord in the dwelling-house passes from the landlord to another body after a tenant has given a notice claiming to exercise the right to acquire, all parties shall subject to subsection (2) be in the same position as if the other body had become the landlord before the notice was given and had been given that notice and any further notice given by the tenant to the landlord and had taken all steps which the landlord had taken.

- (2) If the circumstances after the disposal differ in any material respect, as for example where—
 - (a) the interest of the disponent in the dwelling-house after the disposal differs from that of the disponent before the disposal, or
 - (c) any of the provisions of Schedule 5 (exceptions to the right to acquire) becomes or ceases to be applicable,

all those concerned shall, as soon as practicable after the disposal, take all such steps (whether by way of amending or withdrawing and re-serving any notice or extending any period or otherwise) as may be requisite for the purpose of securing that all parties are, as nearly as may be, in the same position as they would have been if those circumstances had obtained before the disposal.

Completion of purchase in pursuance of right to acquire

Duty of landlord to convey freehold or grant lease

138.—(1) Where a tenant has claimed to exercise the right to acquire and that right has been established, then, as soon as all matters relating to the grant have been agreed or determined, the landlord shall make to the tenant—

- (a) if the dwelling-house is a house and the landlord owns the freehold, a grant of the dwelling-house for an estate in fee simple absolute, or
- (b) if the landlord does not own the freehold or if the dwelling-house is a flat (whether or not the landlord owns the freehold), a grant of a lease of the dwelling-house,

in accordance with the following provisions of this Part.

(2) If the tenant has failed to pay the rent or any other payment due from him as a tenant for a period of four weeks after it has been lawfully demanded from him, the landlord is not bound to comply with subsection (1) while the whole or part of that payment remains outstanding.

- (3) The duty imposed on the landlord by subsection (1) is enforceable by injunction.

Terms and effect of conveyance or grant

139.—(1) A conveyance of the freehold executed in pursuance of the right to acquire shall conform with Parts I and II of Schedule 6; a grant of a lease so executed shall conform with Parts I and III of that Schedule; and Part IV of that Schedule has effect in relation to certain charges.

(2) The tenancy comes to an end on the grant to the tenant of an estate in fee simple, or of a lease, in pursuance of the provisions of this Part relating to the right to acquire; and if there is then a subtenancy section 139 of the Law of Property Act 1925 (effect of extinguishment of reversion) applies as on a merger or surrender.

Landlord's first notice to complete

140.—(1) The landlord may, subject to the provisions of this section, serve on the tenant at any time a written notice requiring him—

- (a) if all relevant matters have been agreed or determined, to complete the transaction within a period stated in the notice, or
- (b) if any relevant matters are outstanding, to serve on the landlord within that period a written notice to that effect specifying the matters,

and informing the tenant of the effect of this section and of section 141(1), (2) and (4) (landlord's second notice to complete).

(2) The period stated in a notice under this section shall be such period (of at least 56 days) as may be reasonable in the circumstances.

(3) A notice under this section shall not be served earlier than twelve months after the service of the landlord's notice under section 125 (notice of purchase price and other matters).

(4) A notice under this section shall not be served if—

- (a) a requirement for the determination or re-determination of the value of the dwelling-house by the district valuer has not been complied with,
- (b) proceedings for the determination of any other relevant matter have not been disposed of, or
- (c) any relevant matter stated to be outstanding in a written notice served on the landlord by the tenant has not been agreed in writing or determined.

(5) In this section "relevant matters" means matters relating to the grant.

Landlord's second notice to complete

141.—(1) If the tenant does not comply with a notice under section 140 (landlord's first notice to complete), the landlord may serve on him a further written notice—

- (a) requiring him to complete the transaction within a period stated in the notice, and
- (b) informing him of the effect of this section in the event of his failing to comply.

(2) The period stated in a notice under this section shall be such period (of at least 56 days) as may be reasonable in the circumstances.

(3) At any time before the end of that period (or that period as previously extended) the landlord may by a written notice served on the tenant extend it (or further extend it).

(4) If the tenant does not comply with a notice under this section the notice claiming to exercise the right to acquire shall be deemed to be withdrawn at the end of that period (or, as the case may require, that period as extended under subsection (3)).

(5) If a notice under this section has been served on the tenant and by virtue of section 138(2) (failure of tenant to pay rent, etc.) the landlord is not bound to complete, the tenant shall be deemed not to comply with the notice.

Registration of title

Registration of title

154.—(1) Where the landlord's title to the dwelling-house is not registered, section 123 of the Land Registration Act 1925 (compulsory registration of title) applies in relation to the conveyance of the freehold or the grant of a lease in pursuance of this Part, whether or not the dwelling-house is in an area in which an Order in Council under section 120 of that Act is for the time being in force (areas of compulsory registration) and, in the case of a lease, whether or not the lease is granted for a term of more than 21 years.

(2) Where the landlord's title to the dwelling-house is not registered, the landlord shall give the tenant a certificate stating that the landlord is entitled to convey the freehold or make the grant subject only to such incumbrances, rights and interests as are stated in the conveyance or grant or summarised in the certificate.

(3) Where the landlord's interest in the dwelling-house is a lease, the certificate under subsection (2) shall also state particulars of that lease and, with respect to each superior title—

- (a) where it is registered, the title number;
- (b) where it is not registered, whether it was investigated in the usual way on the grant of the landlord's lease.

(4) A certificate under subsection (2) shall be—

- (a) in a form approved by the Chief Land Registrar, and
- (b) signed by such officer of the landlord or such other person as may be approved by the Chief Land Registrar.

(5) The Chief Land Registrar shall, for the purpose of the registration of title, accept such a certificate as sufficient evidence of the facts stated in it; but if as a result he has to meet a claim against him under the Land Registration Acts 1925 to 1971 the landlord is liable to indemnify him.

(6) Sections 8 and 22 of the Land Registration Act 1925 (application for registration of leasehold land and registration of dispositions of leasehold) apply in relation to a lease granted in pursuance of this Part notwithstanding that it is a lease for a term of which not more than 21 years are unexpired or, as the case may be, a lease granted for a term not exceeding 21 years.

(7) Section 70(1)(k) of the Land Registration Act 1925 (overriding interests) shall not apply to a lease granted in pursuance of this Part.

Provisions affecting future disposals

Repayment of discount on early disposal

155.—(1) A conveyance of the freehold or grant of a lease in pursuance of this Part shall contain (unless, in the case of a conveyance or grant in pursuance of the right to acquire, there is no discount) a covenant binding on the tenant and his successors in title to the following effect.

(2) The covenant shall be to pay to the landlord on demand, if within a period of three years there is a relevant disposal which is not an exempted disposal (but if there is more than one such disposal, then only on the first of them), the discount to which the tenant was entitled, reduced by one third for each complete year which has elapsed after the conveyance or grant and before the disposal.

Liability to repay is a charge on the premises

156.—(1) The liability that may arise under the covenant required by section 155 is a charge on the dwelling-house, taking effect as if it had been created by deed expressed to be by way of legal mortgage.

(2) Subject to subsections (2A) and (2B), the charge has priority immediately after any legal charge securing an amount advanced to the tenant by an approved lending institution for the purpose of enabling him to exercise the right to acquire.

(2A) The following, namely—

- (a) any advance which is made otherwise than for the purpose mentioned in subsection (2) and is secured by a legal charge having priority to the charge taking effect by virtue of this section, and
- (b) any further advance which is so secured,

shall rank in priority to that charge if, and only if, the landlord by written notice served on the institution concerned gives its consent; and the landlord shall so give its consent if the purpose of the advance or further advance is an approved purpose.

(2B) The landlord may at any time by written notice served on an approved lending institution postpone the charge taking effect by virtue of this section to any advance or further advance which—

- (a) is made to the tenant by that institution, and
- (b) is secured by a legal charge not having priority to that charge;

and the landlord shall serve such a notice if the purpose of that advance or further advance is an approved purpose.

(3) A charge taking effect by virtue of this section is a land charge for the purposes of section 59 of the Land Registration Act 1925 notwithstanding subsection (5) of that section (exclusion of mortgages), and subsection (2) of that section applies accordingly with respect to its protection and realisation.

(3A) The covenant required by section 155 (covenant for repayment of discount) does not, by virtue of its binding successors in title of the tenant, bind a person exercising rights under a charge having priority over the charge taking effect by virtue of this section, or a person deriving title under him; and a provision of the conveyance or grant, or of a collateral agreement, is void in so far as it purports to authorise a forfeiture, or to impose a penalty or disability, in the event of any such person failing to comply with that covenant.

(4) The approved lending institutions for the purposes of this section are—

- the Corporation,
- a building society,
- a bank,
- a trustee savings bank,
- an insurance company,
- a friendly society,

and any body specified, or of a class or description specified, in an order made by the Secretary of State with the consent of the Treasury.

(4A) The approved purposes for the purposes of this section are—

- (b) to enable the tenant to defray, or to defray on his behalf, any of the following—
 - (i) the cost of any works to the dwelling-house,
 - (ii) any service charge payable in respect of the dwelling-house for works, whether or not to the dwelling-house and

- (iii) any service charge or other amount payable in respect of the dwelling-house for insurance, whether or not of the dwelling-house, and
- (c) to enable the tenant to discharge, or to discharge on his behalf, any of the following—
 - (i) so much as is still outstanding of any advance or further advance which ranks in priority to the charge taking effect by virtue of this section,
 - (ii) any arrears of interest on such an advance or further advance, and
 - (iii) any costs and expenses incurred in enforcing payment of any such interest, or repayment (in whole or in part) of any such advance or further advance.

(4B) Where different parts of an advance or further advance are made for different purposes, each of those parts shall be regarded as a separate advance or further advance for the purposes of this section.

- (5) An order under subsection (4)—
 - (a) shall be made statutory instrument, and
 - (b) may make different provision with respect to different cases or descriptions of case, including different provision for different areas.

(6) Before making an order varying or revoking a previous order, the Secretary of State shall give an opportunity for representations to be made on behalf of any body which, if the order were made, would cease to be an approved lending institution for the purposes of this section.

Relevant disposals

159.—(1) A disposal, whether of the whole or part of the dwelling-house, is a relevant disposal for the purposes of this Part if it is—

- (a) a further conveyance of the freehold or an assignment of the lease, or
 - (b) the grant of a lease (other than a mortgage term) for a term of more than 21 years otherwise than at a rack rent.
- (2) For the purposes of subsection (1)(b) it shall be assumed—
- (a) that any option to renew or extend a lease or sub-lease, whether or not forming part of a series of options, is exercised, and
 - (b) that any option to terminate a lease or sub-lease is not exercised.

Exempted disposals

160.—(1) A disposal is an exempted disposal for the purposes of this Part if—

- (a) it is a disposal of the whole of the dwelling-house and a further conveyance of the freehold or an assignment of the lease and the person or each of the persons to whom it is made is a qualifying person (as defined in subsection (2));
 - (b) it is a vesting of the whole of the dwelling-house in a person taking under a will or on an intestacy;
 - (c) it is a disposal of the whole of the dwelling-house in pursuance of any such order as is mentioned in subsection (3);
 - (d) it is a compulsory disposal (as defined in section 161); or
 - (e) it is a disposal of property consisting of land included in the dwelling-house by virtue of section 184 (land let with or used for the purposes of the dwelling-house).
- (2) For the purposes of subsection (1)(a), a person is a qualifying person in relation to a disposal if—

- (a) he is the person, or one of the persons, by whom the disposal is made,
 - (b) he is the spouse or a former spouse of that person, or one of those persons, or
 - (c) he is a member of the family of that person, or one of those persons, and has resided with him throughout the period of twelve months ending with the disposal.
- (3) The orders referred to in subsection (1)(c) are orders under—
- (a) section 24 or 24A of the Matrimonial Causes Act 1973 (property adjustment orders or orders for the sale of property in connection with matrimonial proceedings),
 - (b) section 2 of the Inheritance (Provision for Family and Dependants) Act 1975 (orders as to financial provision to be made from estate),
 - (c) section 17 of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders or orders for the sale of property after overseas divorce, &c.), or
 - (d) paragraph 1 of Schedule 1 to the Children Act 1989 (orders for financial relief against parents).

Meaning of “compulsory disposal”

161. In this Part a “compulsory disposal” means a disposal of property which is acquired compulsorily, or is acquired by a person who has made or would have made, or for whom another person has made or would have made, a compulsory purchase order authorising its compulsory purchase for the purposes for which it is acquired.

Exempted disposals which end liability under covenants

162. Where there is a relevant disposal which is an exempted disposal by virtue of section 160(1)(d) or (e) (compulsory disposals or disposals of land let with or used for purposes of dwelling-house) the covenant required by section 155 (repayment of discount on early disposal) is not binding on the person to whom the disposal is made or any successor in title of his, and that covenant and the charge taking effect by virtue of section 156 cease to apply in relation to the property disposed of.

Treatment of options

163.—(1) For the purposes of this Part the grant of an option enabling a person to call for a relevant disposal which is not an exempted disposal shall be treated as such a disposal made to him.

Modifications of Leasehold Reform Act 1967 in relation to leases granted under this Part

Exclusion of leases where landlord is housing association and freeholder is a charity

172.—(1) Part I of the Leasehold Reform Act 1967 (enfranchisement and extension of long leaseholds) does not apply where, in the case of a tenancy or sub-tenancy to which this section applies, the landlord is a housing association and the freehold is owned by a body of persons or trust established for charitable purposes only.

(2) This section applies to a tenancy created by the grant of a lease in pursuance of this Part of a dwelling-house which is a house.

(3) Where Part I of the 1967 Act applies as if there had been a single tenancy granted for a term beginning at the same time as the term under a tenancy falling within subsection (2) and expiring at the same time as the term under a later tenancy, this section also applies to that later tenancy.

(4) This section applies to any sub-tenancy directly or indirectly derived out of a tenancy falling within subsection (2) or (3).

Leases granted under this Part to be treated as long leases at a low rent

174. For the purposes of Part I of the Leasehold Reform Act 1967 (enfranchisement and extension of long leaseholds) a tenancy created by the grant of a lease in pursuance of this Part of a dwelling-house which is a house shall be treated as being a long tenancy notwithstanding that it is granted for a term of 21 years or less.

Determination of price payable

175.—(1) Where, in the case of a tenancy or sub-tenancy to which this section applies, the tenant exercises his right to acquire the freehold under Part I of the Leasehold Reform Act 1967, the price payable for the dwelling-house shall be determined in accordance with section 9(1A) of that Act notwithstanding that the circumstances specified in that section do not apply.

(2) This section applies to a tenancy created by the grant of a lease in pursuance of this Part of a dwelling-house which is a house.

(3) Where Part I of the 1967 Act applies as if there had been a single tenancy granted for a term beginning at the same time as the term under a tenancy falling within subsection (2) and expiring at the same time as the term under a later tenancy, this section also applies to that later tenancy.

(4) This section applies to any sub-tenancy directly or indirectly derived out of a tenancy falling within subsection (2) or (3).

(5) This section also applies to a tenancy granted in substitution for a tenancy or sub-tenancy falling within subsections (2) to (4) in pursuance of Part I of the 1967 Act.

Supplementary provisions

Notices

176.—(3) A notice under this Part may be served by sending it by post.

(4) A notice to be served by the tenant on the landlord under this Part may be served by leaving it at, or sending it to, the principal office of the landlord or the office of the landlord with which the tenant usually deals.

Costs

178. An agreement between the landlord and a tenant claiming to exercise the right to acquire is void in so far as it purports to oblige the tenant to bear any part of the costs incurred by the landlord in connection with the tenant's exercise of that right.

Provisions restricting right to acquire etc. of no effect

179.—(1) A provision of a lease held by the landlord or a superior landlord, or of an agreement (whenever made), is void in so far as it purports to prohibit or restrict—

- (a) the grant of a lease in pursuance of the right to acquire, or
- (b) the subsequent disposal (whether by way of assignment, sub-lease or otherwise) of a lease so granted,

or to authorise a forfeiture, or impose on the landlord or superior landlord a penalty or disability, in the event of such a grant or disposal.

Statutory declarations

180. A landlord may, if the landlord thinks fit, accept a statutory declaration made for the purposes of this Part as sufficient evidence of the matters declared in it.

Jurisdiction of county court

181.—(1) A county court has jurisdiction—

- (a) to entertain any proceedings brought under this Part, and
- (b) to determine any question arising under this Part;

but subject to section 128 (which provides for matters of valuation to be determined by the district valuer).

(2) The jurisdiction conferred by this section includes jurisdiction to entertain proceedings on any such question as is mentioned in subsection (1)(b) notwithstanding that no other relief is sought than a declaration.

(3) If a person takes proceedings in the High Court which, by virtue of this section, he could have taken in the county court, he is not entitled to recover any costs.

(4) The Lord Chancellor may make such rules and give such directions as he thinks fit for the purpose of giving effect to this section; and such rules or directions may provide—

- (a) for the exercise by a registrar of a county court of any jurisdiction exercisable under this section, and
- (b) for the conduct of proceedings in private.

(5) The power to make rules under this section is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Meaning of “house”, “flat” and “dwelling-house”

183.—(1) The following provisions apply to the interpretation of “house”, “flat” and “dwelling-house” when used in this Part.

(2) A dwelling-house is a house if, and only if, it (or so much of it as does not consist of land included by virtue of section 184) is a structure reasonably so called; so that—

- (a) where a building is divided horizontally, the flats or other units into which it is divided are not houses;
- (b) where a building is divided vertically, the units into which it is divided may be houses;
- (c) where a building is not structurally detached, it is not a house if a material part of it lies above or below the remainder of the structure.

(3) A dwelling-house which is not a house is a flat.

Land let with or used for purposes of dwelling-house

184.—(1) For the purpose of this Part land let together with a dwelling-house shall be treated as part of the dwelling-house, unless the land is agricultural land (within the meaning set out in section 26(3)(a) of the General Rate Act 1967) exceeding two acres.

(2) There shall be treated as included in a dwelling-house any land which is not within subsection (1) but is or has been used for the purpose of the dwelling-house if—

- (a) the tenant, by written notice served on the landlord at any time before he exercises the right to acquire requires the land to be included in the dwelling-house, and
- (b) it is reasonable in all the circumstances for the land to be so included.

(3) A notice under subsection (2) may be withdrawn by a written notice served on the landlord at any time before the tenant exercises the right to acquire.

(4) Where a notice under subsection (2) is served or withdrawn after the service of the notice under section 125 (landlord's notice of purchase price, etc), the parties shall, as soon as practicable after the service or withdrawal, take all such steps (whether by way of amending, withdrawing or re-serving any notice or extending any period or otherwise) as may be requisite for the purpose of securing that all parties are, as nearly as may be, in the same position as they would have been in if the notice under subsection (2) had been served or withdrawn before the service of the notice under section 125.

Meaning of “secure tenancy” and “secure tenant”

185.—(1) References in this Part to a secure tenancy or a secure tenant in relation to a time before 26th August 1984 are to a tenancy which would have been a secure tenancy if Chapter II of Part I of the Housing Act 1980 and Part I of the Housing and Building Control Act 1984 and had then been in force or to a person who would then have been a secure tenant.

(2) For the purpose of determining whether a person would have been a secure tenant and his tenancy a secure tenancy—

- (a) a predecessor of a local authority shall be deemed to have been such an authority, and
- (b) a housing association shall be deemed to have been registered if it is or was a registered social landlord at any later time.

Members of a person's family

186.—(1) A person is a member of another's family within the meaning of this Part if—

- (a) he is the spouse of that person, or he and that person live together as husband and wife, or
- (b) he is that person's parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.

(2) For the purposes of subsection (1)(b)—

- (a) a relationship by marriage shall be treated as a relationship by blood,
- (b) a relationship of the half-blood shall be treated as a relationship of the whole blood,
- (c) the stepchild of a person shall be treated as his child, and
- (d) an illegitimate child shall be treated as the legitimate child of his mother and reputed father.

Minor definitions

187. In this Part—

“improvement” means, in relation to a dwelling-house, any alteration in, or addition to, the dwelling-house and includes—

- (a) any addition to, or alteration in, landlord's fixtures and fittings and any addition or alteration connected with the provision of services to the dwelling-house,
- (b) the erection of a wireless or television aerial, and
- (c) the carrying out of external decoration

and shall be similarly construed in relation to any other building or land;

“improvement contribution” means an amount payable by a tenant of a flat in respect of improvements to the flat, the building in which it is situated or any other building or land, other than works carried out in discharge of any such obligations as are referred to in paragraph 16A(1) of Schedule 6 (obligation to repair, reinstate, etc.);

“long tenancy” means—

- (a) a long tenancy within the meaning of Part IV,
 - (b) , or
 - (c) a tenancy falling within paragraph 1 of Schedule 2 to the Housing (Northern Ireland) Order 1983;
- and “long lease” shall be construed accordingly;

Index of defined expressions: Part V

188. The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used in the same section or paragraph):—

bank	section 622
building society	section 622
cemetery	section 622
charity	section 622
compulsory disposal	section 161
co-operative housing association	section 5(2)
the Corporation	section 6A
district valuer	section 622
dwelling-house	sections 183 and 184
exempted disposal	section 160
family (member of)	section 186
flat	section 183
friendly society	section 622
house	section 183
housing association	section 5(1)
housing trust	section 6
improvement	section 187
improvement contribution	section 187
incumbrances	paragraph 7 of Schedule 6
insurance company	section 622
lease	section 621
local authority	section 4(e)
local housing authority	section 1, 2(2)
long tenancy (and long lease)	section 187
new town corporation	section 4(b)
prescribed	section 614

public sector tenancy (and public sector tenant)	paragraphs 6 to 10 of Schedule 4
purchase price	section 126
reference period (for purposes of s.125A or 125B)	section 125C
registered social landlord	section 5(4) and (5)
regular armed forces of the Crown	section 622
relevant disposal	section 159 and see section 452(3)
relevant time	section 122(2)
right to acquire	section 118(1)
secure tenancy and secure tenant	sections 79 and 185
service charge	section 621A
tenant's incumbrance	paragraph 7 of Schedule 6
trustee savings bank	section 622
urban development corporation	section 4(d)

SCHEDULE 4

Sections 119 and 129

QUALIFYING PERIOD FOR RIGHT TO ACQUIRE AND DISCOUNT

Introductory

1. The period to be taken into account for the purposes of section 119 (qualification for right to acquire) is the period qualifying, or the aggregate of the periods qualifying, under the following provisions of this Schedule.

Periods occupying accommodation subject to public sector tenancy

2. A period qualifies under this paragraph if it is a period during which, before the relevant time—
- (a) the tenant, or
 - (b) his spouse (if they are living together at the relevant time), or
 - (c) a deceased spouse of his (if they were living together at the time of the death),

was a public sector tenant or was the spouse of a public sector tenant and occupied as his only or principal home the dwelling-house of which the spouse was such a tenant.

3. For the purposes of paragraph 2 a person who, as a joint tenant under a public sector tenancy, occupied a dwelling-house as his only or principal home shall be treated as having been the public sector tenant under that tenancy.

4.—(1) This paragraph applies where the public sector tenant of a dwelling-house died or otherwise ceased to be a public sector tenant of the dwelling-house, and thereupon a child of his who occupied the dwelling-house as his only or principal home (the “new tenant”) became the public sector tenant of the dwelling-house (whether under the same or under another public sector tenancy).

(2) A period during which the new tenant, since reaching the age of 16, occupied as his only or principal home a dwelling-house of which a parent of his was the public sector tenant or one of joint tenants under a public sector tenancy, being either—

- (a) the period at the end of which he became the public sector tenant, or
- (b) an earlier period ending two years or less before the period mentioned in paragraph (a) or before another period within this paragraph,

shall be treated for the purposes of paragraph 2 as a period during which he was a public sector tenant.

(3) For the purposes of this paragraph two persons shall be treated as parent and child if they would be so treated under section 186(2) (members of a person's family: relationships other than those of the whole blood).

Periods occupying forces accommodation

5. A period qualifies under this paragraph if it is a period during which, before the relevant time—

- (a) the tenant, or
- (b) his spouse (if they are living together at the relevant time), or
- (c) a deceased spouse of his (if they were living together at the time of the death),

occupied accommodation provided for him as a member of the regular armed forces of the Crown or was the spouse of a person occupying accommodation so provided and also occupied that accommodation.

Meaning of "public sector tenant"

6.—(1) In this Schedule a "public sector tenant" means a tenant under a public sector tenancy.

(2) For the purposes of this Schedule, a tenancy, other than a long tenancy, under which a dwelling-house was let as a separate dwelling was a public sector tenancy at any time when the conditions described below as the landlord condition and the tenant conditions were satisfied.

(3) The provisions of this Schedule apply in relation to a licence to occupy a dwelling-house (whether or not granted for a consideration) as they apply in relation to a tenancy.

(4) Sub-paragraph (3) does not apply to a licence granted as a temporary expedient to a person who entered the dwelling-house or any other land as a trespasser (whether or not, before the grant of that licence, another licence to occupy that or another dwelling-house had been granted to him).

The landlord condition

7.—(1) The landlord condition is, subject to paragraph 7A and to any order under paragraph 8, that the interest of the landlord belonged to, or to a predecessor of—

- a local authority,
- a new town corporation,
- a housing action trust,
- the Development Board for Rural Wales,
- an urban development corporation,
- the Corporation,
- a registered social landlord which is not a co-operative housing association,

or to a predecessor of, an authority or other body falling within sub-paragraph (2) or (3) (corresponding authorities and bodies in Scotland and Northern Ireland).

(2) The corresponding authorities and bodies in Scotland are—

- a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994,
- a joint board or joint committee of such a council,
- the common good of such a council or a trust under its control,
- a development corporation, established by an order made or having effect as if made under the New Towns (Scotland) Act 1968,
- Scottish Homes,
- a housing association which falls within section 6(2)(a) (vi) of the Housing (Scotland) Act 1987 but is not a registered society within the meaning of section 45 of that Act.

(3) The corresponding authorities and bodies in Northern Ireland are—

- a district council within the meaning of the Local Government Act (Northern Ireland) 1972,
- the Northern Ireland Housing Executive, and
- a registered housing association within the meaning of Chapter II of Part II of the Housing (Northern Ireland) Order 1983.

7A.—(1) The landlord condition shall be treated as having been satisfied in the case of a dwelling-house comprised in a housing co-operative agreement made—

- (a) in England and Wales, by a local housing authority, new town corporation or the Development Board for Rural Wales, or
- (b) in Scotland, by a local housing authority,

if the interest of the landlord belonged to the housing co-operative.

(2) In sub-paragraph (1) “housing co-operative agreement” and “housing co-operative”—

- (a) as regards England and Wales have the same meaning as in section 27B (agreements with housing co-operatives under superseded provisions), and
- (b) as regards Scotland mean an agreement made under section 22 of the Housing (Scotland) Act 1987 and a housing co-operative within the meaning of that section.

8.—(1) The landlord condition shall also be treated as having been satisfied, in such circumstances as may be prescribed for the purposes of this paragraph by order of the Secretary of State, if the interest of the landlord belonged to a person who is so prescribed.

(2) An order under this paragraph—

- (a) may make different provision with respect to different cases or descriptions of case, including different provision for different areas, and
- (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

The tenant condition

9. The tenant condition is that the tenant was an individual and occupied the dwelling-house as his only or principal home; or, where the tenancy was a joint tenancy, that each of the joint tenants was an individual and at least one of them occupied the dwelling-house as his only or principal home.

Application to certain housing association tenancies

10. For the purpose of determining whether at any time a tenant of a housing association was a public sector tenant and his tenancy a public sector tenancy, the association shall be deemed to have been registered at that time, under Part I of the Housing Act 1996 or Part I of the Housing Associations Act 1985 or under the corresponding Northern Ireland legislation, if it was so registered at any later time.

SCHEDULE 5

Section 120

EXCEPTIONS TO THE RIGHT TO ACQUIRE

Rural areas

1A. The right to acquire does not arise if the dwelling-house is situated in a rural area designated by order of the Secretary of State under section 17(1)(b) (right to acquire: supplementary provisions) of the Housing Act 1996.

Certain housing associations

2. The right to acquire does not arise if the landlord is a co-operative housing association.

Landlord with insufficient interest in the property

4. The right to acquire does not arise unless the landlord owns the freehold or has an interest sufficient to grant a lease in pursuance of this Part for—

- (a) where the dwelling-house is a house, a term exceeding 21 years, or
- (b) where the dwelling-house is a flat, a term of not less than 50 years,

commencing, in either case, with the date on which the tenant's notice claiming to exercise the right to acquire is served.

Dwelling-houses let in connection with employment

5.—(1) The right to acquire does not arise if the dwelling-house—

- (a) forms part of, or is within the curtilage of, a building which, or so much of it as is held by the landlord, is held mainly for purposes other than housing purposes and consists mainly of accommodation other than housing accommodation, or is situated in a cemetery, and
- (b) was let to the tenant or a predecessor in title of his in consequence of the tenant or predecessor being in the employment of the landlord or of—

- a local authority,
- a new town corporation,
- a housing action trust,
- the Development Board for Rural Wales,
- an urban development corporation, or
- the governors of an aided school.

(2) In sub-paragraph (1)(a) “housing purposes” means the purposes for which dwelling-houses are held by local housing authorities under Part II (provision of housing) or purposes corresponding to those purposes.

Certain dwelling-houses for the disabled

7. The right to acquire does not arise if the dwelling-house has features which are substantially different from those of ordinary dwelling-houses and are designed to make it suitable for occupation by physically disabled persons, and—

- (a) it is one of a group of dwelling-houses which it is the practice of the landlord to let for occupation by physically disabled persons, and
- (b) a social service or special facilities are provided in close proximity to the group of dwelling-houses wholly or partly for the purpose of assisting those persons.

9.—(1) The right to acquire does not arise if—

- (a) the dwelling-house is one of a group of dwelling-houses which it is the practice of the landlord to let for occupation by persons who are suffering or have suffered from a mental disorder, and
- (b) a social service or special facilities are provided wholly or partly for the purpose of assisting those persons.

(2) In sub-paragraph (1)(a) “mental disorder” has the same meaning as in the Mental Health Act 1983.

Certain dwelling houses for persons with special needs

9A.—(1) The right to acquire does not arise if the dwelling-house is one of a group of dwelling-houses which it is the practice of the landlord to let for occupation by persons who have special needs and require intensive housing assistance and such intensive housing assistance is provided, either directly or indirectly, by the landlord.

(2) In this paragraph “intensive housing assistance” means the provision by the landlord to persons with special needs of assistance on housing issues which is significantly greater than the assistance which is generally provided by registered social landlords to tenants who do not have special needs.

(3) In this paragraph “persons who have special needs” means persons who are vulnerable as a result of age, physical disability or illness, a mental disorder or impairment of any kind, drug or alcohol addiction, violence or the threat of violence by a member of a person’s family, or other special reason.

Certain dwelling-houses for persons of pensionable age

10.—(1) The right to acquire does not arise if the dwelling-house is one of a group of dwelling-houses—

- (a) which are particularly suitable, having regard to their location, size, design, heating systems and other features, for occupation by elderly persons, and
- (b) which it is the practice of the landlord to let for occupation by persons aged 60 or more, or for occupation by such persons and physically disabled persons,

and special facilities such as are mentioned in sub-paragraph (2) are provided wholly or mainly for the purposes of assisting those persons.

- (2) The facilities referred to above are facilities which consist of or include—
- (a) the services of a resident warden, or
 - (b) the services of a non-resident warden, a system for calling him and the use of a common room in close proximity to the group of dwelling-houses.

Dwelling-houses held on Crown tenancies

12.—(1) The right to acquire does not arise if the dwelling-house is held by the landlord on a tenancy from the Crown, unless—

- (a) the landlord is entitled to grant a lease in pursuance of this Part without the concurrence of the appropriate authority, or
- (b) the appropriate authority notifies the landlord that as regards any Crown interest affected the authority will give its consent to the granting of such a lease.

(2) In this paragraph “tenancy from the Crown” means a tenancy of land in which there is a Crown interest superior to the tenancy, and “Crown interest” and “appropriate authority” mean respectively

- (a) an interest comprised in the Crown Estate, and the Crown Estate Commissioners or other government department having the management of the land in question;
- (b) an interest belonging to Her Majesty in right of the Duchy of Lancaster, and the Chancellor of the Duchy;
- (c) an interest belonging to the Duchy of Cornwall, and such person as the Duke of Cornwall or the possessor for the time being of the Duchy appoints;
- (d) any other interest belonging to a government department or held on behalf of Her Majesty for the purposes of a government department, and that department.

(3) Section 179(1) (which renders ineffective certain provisions restricting the grant of leases under this Part) shall be disregarded for the purposes of sub-paragraph (1)(a).

Dwelling-houses where the debt is equal to or greater than the purchase price plus discount

13.—(1) The right to acquire does not arise if the net debt or the peak debt attributable to the dwelling-house on the date of service of the tenant’s notice under section 122 (tenant’s notice claiming to exercise right to acquire) is equal to or greater than the purchase price plus the discount.

(2) In sub-paragraph (1) the net debt is the amount of the relevant costs, as defined in sub-paragraph (4), less the amount of public subsidy as defined in sub-paragraph (5).

(3) In sub-paragraph (1) the peak debt is the amount under a loan agreement, as defined in sub-paragraph (6), that is the portion of the maximum amount which the landlord may borrow under a loan agreement which is attributable to the dwelling-house.

(4) In sub-paragraph (2) the “relevant costs” means the costs incurred by the landlord in respect of the dwelling-house, the construction of the dwelling-house (including the costs of development works and the acquisition of land) but does not include the costs of—

- (a) works of repair or maintenance;
- (b) works to deal with any defect affecting the dwelling-house;
- (c) works of improvement where they are paid for on or after the date of service of the tenant’s notice under section 122 unless—
 - (i) the landlord has before that date entered into a written contract for the carrying out of the works; or

- (ii) the tenant has agreed in writing to the carrying out of the works and either the works have been carried out no later than the date of service of the landlord's notice under section 125 (landlord's notice of purchase price and other matters) or the works will be carried out under the proposed terms of the conveyance.

(5) In sub-paragraph (2) "public subsidy" means grant or other financial assistance of any kind used by the landlord in whole or in part in connection with the acquisition, construction (including the costs of development and the acquisition of land), repair, maintenance or improvement of the dwelling-house where such grant or assistance is received from—

the Housing Corporation in England and Housing for Wales in Wales under section 18 of the Housing Act 1996 (social housing grants),

the Secretary of State under section 126 of the Housing Grants, Construction and Regeneration Act 1996 under the programme designated "City Challenge" in England and the programmes designated the "Strategic Development Scheme" and "Welsh Capital Challenge" in Wales,

a local housing authority where grant is paid pursuant to an application by the landlord under Part VIII (grants towards the costs of improvements and repairs, etc.) of the Local Government and Housing Act 1989 or Chapter I of Part I (grants &c. for renewal of private sector housing) of the Housing Grants, Construction and Regeneration Act 1996,

National Lottery, and

a local authority in a case where the local authority has conveyed the freehold or the leasehold of land to the landlord at a price which is below the market value of the land at the time of the conveyance.

(6) In sub-paragraph (3) a "loan agreement" means an agreement—

- (a) for a loan between a lender and the landlord which is wholly or partly secured by a charge (however created or arising) on the landlord's interest in the dwelling-house,
- (b) which specifies the portion of the maximum amount which the landlord may borrow in any period which is attributable to the dwelling-house, and
- (c) which is for the purpose of the provision of monies for use in connection with the acquisition of land held for housing purposes and housing stock pursuant to a disposal under section 32 (power to dispose of land held for the purposes of this Part) of the Housing Act 1985; and where a loan is for such a purpose it may include the construction of dwelling-houses (including the costs of development works and the acquisition of land) and works of repair, maintenance or improvement to dwelling-houses pursuant to such acquisition.

SCHEDULE 6

Sections 139 and 151

CONVEYANCE OF FREEHOLD AND GRANT OF LEASE IN PURSUANCE OF RIGHT TO ACQUIRE

PART I

COMMON PROVISIONS

Rights to be conveyed or granted-general

1. The conveyance or grant shall not exclude or restrict the general words implied under section 62 of the Law of Property Act 1925, unless the tenant consents or the exclusion or restriction is made for the purpose of preserving or recognising an existing interest of the landlord in tenant's incumbrances or an existing right or interest of another person.

Rights of support, passage of water, etc

2.—(1) The conveyance or grant shall, by virtue of this Schedule, have the effect stated in subparagraph (2) as regards—

- (a) rights of support for a building or part of a building;
- (b) rights to the access of light and air to a building or part of a building;
- (c) rights to the passage of water or of gas or other piped fuel, or to the drainage or disposal of water, sewage, smoke or fumes, or to the use or maintenance of pipes or other installations for such passage, drainage or disposal;
- (d) rights to the use or maintenance of cables or other installations for the supply of electricity, for the telephone or for the receipt directly or by landline of visual or other wireless transmissions.

(2) The effect is—

- (a) to grant with the dwelling-house all such easements and rights over other property, so far as the landlord is capable of granting them, as are necessary to secure to the tenant as near as may be the same rights as at the relevant time were available to him under or by virtue of the tenancy or an agreement collateral to it, or under or by virtue of a grant, reservation or agreement made on the severance of the dwelling-house from other property then comprised in the same tenancy; and
- (b) to make the dwelling-house subject to all such easements and rights for the benefit of other property as are capable of existing in law and are necessary to secure to the person interested in the other property as nearly as may be the same rights as at the relevant time were available against the tenant under or by virtue of the tenancy or an agreement collateral to it, or under or by virtue of a grant, reservation or agreement made as mentioned in paragraph (a).

(3) This paragraph—

- (a) does not restrict any wider operation which the conveyance or grant may have apart from this paragraph; but
- (b) is subject to any provision to the contrary that may be included in the conveyance or grant with the consent of the tenant.

Rights of way

3. The conveyance or grant shall include—
- (a) such provisions (if any) as the tenant may require for the purpose of securing to him rights of way over land not comprised in the dwelling-house, so far as the landlord is capable of granting them, being rights of way that are necessary for the reasonable enjoyment of the dwelling-house; and
 - (b) such provisions (if any) as the landlord may require for the purpose of making the dwelling-house subject to rights of way necessary for the reasonable enjoyment of other property, being property in which at the relevant time the landlord has an interest, or to rights of way granted or agreed to be granted before the relevant time by the landlord or by the person then entitled to the reversion on the tenancy.

Covenants and conditions

4. The conveyance or grant shall include such provisions (if any) as the landlord may require to secure that a tenant is bound by, or to indemnify the landlord against breaches of, restrictive covenants (that is to say, covenants or agreements restrictive of the use of any land or premises) which affect the dwelling-house otherwise than by virtue of the tenancy or an agreement collateral to it and are enforceable for the benefit of other property.

4A. The conveyance or grant shall be expressed to be made by the landlord with full title guarantee (thereby implying the covenants for title specified in Part I of the Law of Property (Miscellaneous Provisions) Act 1994).

5. Subject to paragraph 6, and to Parts II and III of this Schedule, the conveyance or grant may include such other covenants and conditions as are reasonable in the circumstances.

No charge to be made for landlord's consent or approval

6. A provision of the conveyance or lease is void in so far as it purports to enable the landlord to charge the tenant a sum for or in connection with the giving of a consent or approval.

Meaning of "incumbrances" and "tenant's incumbrance"

7. In this Schedule—
- "incumbrances" includes personal liabilities attaching in respect of the ownership of land or an interest in land though not charged on the land or interest; and
- "tenant's incumbrance" means—
- (a) an incumbrance on the tenancy which is also an incumbrance on the reversion, and
 - (b) an interest derived, directly or indirectly, out of the tenancy.

PART II

CONVEYANCE OF FREEHOLD

General

8. The conveyance shall not exclude or restrict the all estate clause implied under section 63 of the Law of Property Act 1925, unless the tenant consents or the exclusion or restriction is made for

the purpose of preserving or recognising an existing interest of the landlord in tenant's incumbrances or an existing right or interest of another person.

9.—(1) The conveyance shall be of an estate in fee simple absolute, subject to—

- (a) tenant's incumbrances,
- (b) burdens (other than burdens created by the conveyance) in respect of the upkeep or regulation for the benefit of any locality or any land, building, structure, works, ways or watercourses;

but otherwise free from incumbrances.

(2) Nothing in sub-paragraph (1) shall be taken as affecting the operation of paragraph 5 of this Schedule (reasonable covenants and conditions).

PART III

LEASES

General

11. A lease shall be for the appropriate term defined in paragraph 12 and at a rent not exceeding £10 per annum, and the following provisions have effect with respect to the other terms of the lease.

The appropriate term

12.—(1) If at the time the grant is made the landlord's interest in the dwelling-house is not less than a lease for a term of which more than 125 years and five days are unexpired, the appropriate term is a term of not less than 125 years.

(2) In any other case the appropriate term is a term expiring five days before the term of the landlord's lease of the dwelling-house (or, as the case may require, five days before the first date on which the term of any lease under which the landlord holds any part of the dwelling-house) is to expire.

Common use of premises and facilities

13. Where the dwelling-house is a flat and the tenant enjoyed, during the tenancy, the use in common with others of any premises, facilities or services, the lease shall include rights to the like enjoyment, so far as the landlord is capable of granting them, unless otherwise agreed between the landlord and the tenant.

Covenants by the landlord

14.—(1) This paragraph applies where the dwelling-house is a flat.

(2) There are implied covenants by the landlord—

- (a) to keep in repair the structure and exterior of the dwelling-house and of the building in which it is situated (including drains, gutters and external pipes) and to make good any defect affecting that structure;
- (b) to keep the repair any other property over or in respect of which the tenant has rights by virtue of this Schedule;

- (c) to ensure, so far as practicable, that services which are to be provided by the landlord and to which the tenant is entitled (whether by himself or in common with others) are maintained at a reasonable level and to keep in repair any installation connected with the provision of those services.

(3) There is an implied covenant that the landlord shall rebuild or reinstate the dwelling-house and the building in which it is situated in the case of destruction or damage by fire, tempest, flood or any other cause against the risk of which it is normal practice to insure.

(3A) Sub-paragraphs (2) and (3) have effect subject to paragraph 15(3) (certain obligations not to be imposed, where landlord's title is leasehold, by reason of provisions of superior lease).

(4) The county court may, by order made with the consent of the parties, authorise the inclusion in the lease or in an agreement collateral to it of provisions excluding or modifying the obligations of the landlord under the covenants implied by this paragraph, if it appears to the court that it is reasonable to do so.

15.—(1) This paragraph applies where the landlord's interest in the dwelling-house is leasehold.

(2) There is implied a covenant by the landlord to pay the rent reserved by the landlord's lease and, except in so far as they fall to be discharged by the tenant, to discharge its obligations under the covenants contained in that lease.

(3) A covenant implied by virtue of paragraph 14 (implied covenants where dwelling-house is a flat) shall not impose on the landlord an obligation which the landlord is not entitled to discharge under the provisions of the landlord's lease or a superior lease.

(4) Where the landlord's lease or a superior lease, or an agreement collateral to the landlord's lease or a superior lease, contains a covenant by a person imposing obligations which, but for sub-paragraph (3), would be imposed by a covenant implied by virtue of paragraph 14, there is implied a covenant by the landlord to use its best endeavours to secure that person's obligations under the first-mentioned covenant are discharged.

Covenant by tenant

16. Unless otherwise agreed between the landlord and the tenant, there is implied a covenant by the tenant—

- (a) where the dwelling-house is a house, to keep the dwelling-house in good repair (including decorative repair);
- (b) where the dwelling-house is a flat, to keep the interior of the dwelling-house in such repair.

Service charges and other contributions payable by the tenant

16A.—(1) The lease may require the tenant to bear a reasonable part of the costs incurred by the landlord—

- (a) in discharging or insuring against the obligations imposed by the covenants implied by virtue of paragraph 14(2) (repairs, making good structural defects, provision of services, etc.), or
- (b) in insuring against the obligations imposed by the covenant implied by virtue of paragraph 14(3) (rebuilding or reinstatement, etc.),

and to the extent that by virtue of paragraph 15(3) (effect of provision of superior lease) such obligations are not imposed on the landlord, to bear a reasonable part of the costs incurred by the landlord in contributing to costs incurred by a superior landlord or other person in discharging or, as the case may be, insuring against obligations to the like effect.

(2) Where the lease requires the tenant to contribute to the costs of insurance, it shall provide that the tenant is entitled to inspect the relevant policy at such reasonable times as may be specified in the lease.

(3) Where the landlord does not insure against the obligations imposed by the covenant implied by virtue of paragraph 14(3), or, as the case may be, the superior landlord or other person does not insure against his obligations to the like effect, the lease may require the tenant to pay a reasonable sum in place of the contribution he could be required to make if there were insurance.

(4) Where in any case the obligations imposed by the covenants implied by virtue of paragraph 14(2) or (3) are modified in accordance with paragraph 14(4) (power of county court to authorise modification), the references in this paragraph are to the obligations as so modified.

(5) This paragraph has effect subject to paragraph 16B (restrictions in certain cases as regards costs incurred in the initial period of the lease).

16B.—(1) Where a lease of a flat requires the tenant to pay service charges in respect of repairs (including works for the making good of structural defects), his liability in respect of costs incurred in the initial period of the lease is restricted as follows.

(2) He is not required to pay in respect of works itemised in the estimates contained in the landlord's notice under section 125 any more than the amount shown as his estimated contribution in respect of that item, together with an inflation allowance.

(3) He is not required to pay in respect of works not so itemised at a rate exceeding—

- (a) as regards parts of the initial period falling within the reference period for the purposes of the estimates contained in the landlord's notice under section 125, the estimated annual average amount shown in the estimates;
- (b) as regards parts of the initial period not falling within that reference period, the average rate produced by averaging over the reference period all works for which estimates are contained in the notice;

together, in each case, with an inflation allowance.

(4) The initial period of the lease for the purposes of this paragraph begins with the grant of the lease and ends five years after the grant, except that—

- (a) if the lease includes provision for service charges to be payable in respect of costs incurred in a period before the grant of the lease, the initial period begins with the beginning of that period;
- (b) if the lease provides for service charges to be calculated by reference to a specified annual period, the initial period continues until the end of the fifth such period beginning after the grant of the lease.

16C.—(1) Where a lease of a flat requires the tenant to pay improvement contributions, his liability in respect of costs incurred in the initial period of the lease is restricted as follows.

(2) He is not required to make any payment in respect of works for which no estimate was given in the landlord's notice under section 125.

(3) He is not required to pay in respect of works for which an estimate was given in that notice any more than the amount shown as his estimated contribution in respect of that item, together with an inflation allowance.

(4) The initial period of the lease for the purposes of this paragraph begins with the grant of the lease and ends five years after the grant, except that—

- (a) if the lease includes provision for improvement contributions to be payable in respect of costs incurred in a period before the grant of the lease, the initial period begins with the beginning of that period;

- (b) if the lease provides for improvement contributions to be calculated by reference to a specified annual period, the initial period continues until the end of the fifth such period beginning after the grant of the lease.

16D.—(1) The Secretary of State may by order prescribe—

- (a) the method by which inflation allowances for the purposes of paragraph 16B or 16C are to be calculated by reference to published statistics; and
 - (b) the information to be given to a tenant when he is asked to pay a service charge or improvement contribution to which the provisions of paragraph 16B or 16C are or may be relevant.
- (2) An order—
- (a) may make different provision for different cases or descriptions of case, including different provision for different areas;
 - (b) may contain such incidental, supplementary or transitional provisions as the Secretary of State thinks appropriate; and
 - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Avoidance of certain provisions

17.—(1) A provision of the lease, or of an agreement collateral to it, is void in so far as it purports to prohibit or restrict the assignment of the lease or the subletting, wholly or in part, of the dwelling-house.

18. Where the dwelling-house is a flat, a provision of the lease or of an agreement collateral to it is void in so far as it purports—

- (a) to authorise the recovery of such a charge as is mentioned in paragraph 16A (contributions in respect of repairs, etc.) otherwise than in accordance with that paragraph and paragraph 16B (restrictions in initial period of lease); or
- (b) to authorise the recovery of any charge in respect of costs incurred by the landlord—
 - (i) in discharging the obligations imposed by the covenant implied by paragraph 14(3) (rebuilding or reinstatement, etc.), or those obligations as modified in accordance with paragraph 14(4), or
 - (ii) in contributing to costs incurred by a superior landlord or other person in discharging obligations to the like effect; or
- (c) to authorise the recovery of an improvement contribution otherwise than in accordance with paragraph 16C (restrictions in initial period of lease).

19. A provision of the lease, or of an agreement collateral to it, is void in so far as it purports to authorise a forfeiture, or to impose on the tenant a penalty or disability, in the event of his enforcing or relying on the preceding provisions of this Schedule.

PART IV CHARGES

Grant of lease

20. A charge (however created or arising) on the interest of the landlord which is not a tenant's incumbrance does not affect a lease granted in pursuance of the right to acquire provided that—

- (a) the landlord has complied with the requirements imposed on the landlord by paragraph 22, or
- (b) the holder of a charge has agreed in writing with the landlord that paragraph 22 shall not apply,

but the release does not affect the personal liability of the landlord or any other person in respect of any obligation the charge was created to secure.

Conveyance of freehold

21.—(1) This paragraph applies to a charge (however created or arising) on the freehold where the freehold is conveyed in pursuance of the right to acquire.

(2) If the charge is not a tenant's incumbrance and is not a rentcharge the conveyance is effective to release the freehold from the charge provided that—

- (a) the landlord has complied with the requirements imposed on the landlord by paragraph 22, or
- (b) the holder of the charge has agreed in writing with the landlord that paragraph 22 shall not apply;

but the release does not affect the personal liability of the landlord or any other person in respect of any obligation which the charge was created to secure.

(3) If the charge is a rentcharge the conveyance shall be made subject to the charge; but if the rentcharge also affects other land—

- (a) the conveyance shall contain a covenant by the landlord to indemnify the tenant and his successors in title in respect of any liability arising under the rentcharge, and
 - (b) if the rentcharge is of a kind which may be redeemed under the Rentcharges Act 1977 the landlord shall immediately after the conveyance take such steps as are necessary to redeem the rentcharge so far as it affects land owned by him.
- (4) In this paragraph "rentcharge" has the same meaning as in the Rentcharges Act 1977; and
- (a) for the purposes of sub-paragraph (3) land is owned by a person if he is the owner of it within the meaning of section 13(1) of that Act, and
 - (b) for the purposes of that sub-paragraph and that Act land which has been conveyed by the landlord in pursuance of the right to acquire but subject to the rentcharge shall be treated as if it had not been so conveyed but had continued to be owned by him.

Notice to lenders

22.—(1) This paragraph and paragraph 23 shall apply to a charge (however created or arising) on the interest of the landlord in the dwelling house, unless and until the landlord and the holder of the charge at any time agree otherwise in writing.

(2) Within 7 days of the landlord receiving the tenant's written notice of his intention to pursue his claim to the right to acquire under section 125D the landlord shall serve on the holder of any charge

secured against the dwelling-house a written notice stating the purchase price of the dwelling-house and the amount of the discount and whether the landlord intends to redeem the charge in respect of the dwelling-house on the grant of the lease or the conveyance of the freehold to the tenant pursuant to the right to acquire.

(3) If the landlord's notice states that he intends to redeem the charge then, on the grant of the lease or the conveyance of the freehold, the sum required to redeem the charge shall be paid by the landlord to the charge holder and the charge holder shall supply to the landlord the necessary documentation to release the charge in respect of the dwelling-house.

(4) If the landlord does not intend to redeem the charge on the grant of the lease or conveyance of the freehold, the landlord's notice shall, in addition, offer to the holder of the sole charge or the charge having priority the option of either—

- (a) subject to sub-paragraph (5), taking as alternative security a charge on the interest in a property of the landlord which has a value (excluding any amount secured by a charge with priority on the landlord's interest in the property) equal to or greater than the purchase price of the dwelling-house plus the discount, or
- (b) an amount equal to the purchase price of the dwelling-house plus the discount.

(5) The landlord shall not be required to offer a property as alternative security unless the landlord owns a freehold or leasehold interest in a property with a value (excluding any amount secured by a charge on the interest which is being offered in the property) equal to or greater than the purchase price plus discount.

(6) Where sub-paragraph (4) applies within 14 days of receipt of the landlord's notice the charge holder shall serve on the landlord a written notice stating the option exercised by the charge holder.

(7) Where the charge holder exercises the option specified in sub-paragraph (4)(a) the landlord shall within 14 days of receipt of the charge holder's notice offer the charge holder a specified property in accordance with that sub-paragraph.

(8) Where the charge holder accepts the property offered as alternative security the landlord shall take all reasonable steps to enable the charge holder to secure a charge against the landlord's interest in the property within whichever is the later of—

- (a) 21 days of the date on which the landlord receives notification of the charge holder's acceptance of the property as alternative security, or
- (b) the grant of the lease or the conveyance of the freehold of the dwelling-house pursuant to the right to acquire.

(9) If the landlord fails to take all reasonable steps to enable the charge holder to secure a charge against the landlord's interest in accordance with sub-paragraph (8) the charge holder may require the landlord to pay within 7 days an amount equal to the purchase price of the dwelling-house plus discount.

(10) Where the charge holder rejects the property offered as alternative security the charge holder may require the landlord to pay an amount equal to the purchase price of the dwelling-house plus the discount within whichever is the later of—

- (a) 21 days of the date on which the landlord receives notification of the charge holder's rejection of the property, or
- (b) the grant of the lease or the conveyance of the freehold of the dwelling-house pursuant to the right to acquire.

(11) Where the charge holder exercises the option in sub-paragraph (4)(b) the landlord shall pay the sum specified in that sub-paragraph on the grant of a lease or the conveyance of the freehold of the dwelling-house pursuant to the right to acquire.

Discharge of the charge on the landlord's interest in the dwelling-house

23.—(1) Where the landlord and the charge holder have agreed in writing that the provisions of paragraph 22 shall not apply on the grant of the lease or the conveyance of the freehold pursuant to the right to acquire the landlord shall supply to the tenant a certificate confirming the agreement together with a copy of the agreement which is certified as a true copy.

(2) Where the provisions of paragraph 22 apply, provided that the landlord has complied with the requirements imposed on the landlord by that paragraph any holder of a charge on the landlord's interest in the dwelling-house shall, on the grant of the lease or the conveyance of the freehold of the dwelling-house pursuant to the right to acquire, provide to the landlord such documentation as is necessary to discharge their charge in respect of the dwelling-house.

(3) Where a charge holder does not provide the documentation in accordance with sub-paragraph (2), or where the charge holder has failed to serve a notice in accordance with paragraph 22(6), the landlord shall, on the grant of the lease or the conveyance of the freehold pursuant to the right to acquire, supply to the tenant a certificate stating that the landlord has complied with the requirements imposed on the landlord by paragraph 22.

(4) A certificate under sub-paragraphs (1) or (3) shall be effective to release the dwelling-house from the charge on the interest of the landlord to which the certificate applies but shall not affect the personal liability of the landlord or any other person in respect of any obligation which such a charge was created to secure.

(5) A certificate under sub-paragraphs (1) or (3) shall—

- (a) be in a form approved by the Chief Land Registrar, and
- (b) signed by such officer of the landlord or such other person as may be approved by the Chief Land Registrar.

(6) The Chief Land Registrar shall, for the purpose of registration of title, accept such certificate as sufficient evidence of the facts stated in it, but if as a result he has to meet a claim against him under the Land Registration Acts 1925 to 1971 the landlord is liable to indemnify him.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations modify Part V of the Housing Act 1985 (the right to buy) for cases where a tenant has the right to acquire the dwelling-house under section 16 of the Housing Act 1996. Schedule 1 specifies the modifications and Schedule 2 sets out Part V of the 1985 Act as so modified. In particular, the Regulations—

- exclude the right to buy on rent to mortgage terms and the preserved right to buy;
- remove the exceptions to the right to buy in paragraphs 1, 3 and 11 of Schedule 5 to the 1985 Act (charities; certain housing associations; certain dwelling-houses for the elderly);
- add exceptions to the right to acquire in paragraphs 1A, 9A and 13 of Schedule 5 (dwelling-houses in designated rural areas; dwelling-house for persons with special needs; dwelling-houses charged with debts equal to or greater than the purchase price plus discount);
- provide for the tenant to acquire the dwelling-house at a discount as specified in an order made by the Secretary of State under section 17 of the Housing Act 1996;

- disapply the restrictions on the disposals in National Parks etc. in sections 157 and 158 of the 1985 Act and the powers of the Secretary of State to intervene etc. under sections 164 to 170 of that Act; and
- add provisions in paragraphs 22 and 23 of Schedule 6 on the discharge or release of charges on the landlord's interest in the dwelling-house.